

12:58 hrs.

APPROPRIATION (RAILWAYS) No.
3 BILL*, 1960.

The Minister of Railways (Shri Jagjivan Ram): Sir, I beg to move for leave to introduce a Bill to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet the amounts spent on certain services for the purposes of Railways during the financial year ended on the 31st day of March, 1958, in excess of the amounts granted for those services and for that year.

Mr. Speaker: The question is.

"That leave be granted to introduce a Bill to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet the amounts spent on certain services for the purposes of Railways during the financial year ended on the 31st day of March, 1958, in excess of the amounts granted for those services and for that year."

The motion was adopted.

Shri Jagjivan Ram: Sir, I introduce the Bill.

12:59 hrs.

REPRESENTATION OF THE PEOPLE
(AMENDMENT) BILL—Contd.

Mr. Speaker: The House will now proceed with the further consideration of the following motion moved by Shri Hajarnavis on the 25th April, 1960, namely:—

"That the Bill further to amend the Representation of the People Act, 1950, be taken into consideration."

Three hours were originally allotted for this and the time that has been taken already is 1 hour and 50 minutes; and there is a balance of 1 hour and 10 minutes. With the co-operation of the House I propose to get through all these Bills, the Estate Duty Bill and the Reserve Bank of India (Amendment) Bill; today.

Shri Braj Raj Singh who was in possession of the House may continue. Let him be brief.

13 hrs.

श्री ब्रज राज सिंह (फिरोजाबाद) :
अध्यक्ष महोदय, मैं कल निवेदन कर रहा था कि यदि अपने देश में जनतंत्र को मजबूत बनाना है तो उसके लिए आवश्यक हो जाता है कि जनतंत्र की भावनाओं का आदर किया जाये। अभी भी गृह मंत्री महोदय ने जनतंत्र की बहुत अधिक दुहाई दी है और यह दिखाने की कोशिश की कि संभवतः वह और उनकी पार्टी देश में जनतंत्र को मजबूत करना चाहती है। लेकिन यदि जनतंत्र के विषय में उस की मजबूती का कोई प्रश्न है तो जो बिल हमारे सामने इस वक्त है उसकी जो धाराएं हैं उन से पता लग जाता है कि सरकार न तो जनतंत्र को मजबूत करना चाहती है, न जनतंत्र की भावनाओं का आदर करना चाहती है और न किसी तरीके से किसी कानून को ही मानना चाहती है। अध्यक्ष महोदय, मैं साफ कहना चाहता हूं कि लालस ला जिसका कि कोई अर्थ न हो उसका तोड़ना कानूनन जुर्म नहीं हुआ करता लेकिन यहां तो दूसरी स्थिति है। हमारा अपना संविधान है और संविधान में कहा गया है कि कुछ लोग होंगे जो कि कौंसिल के लिए मैम्बर चुनेंगे। उसके खिलाफ आप ऐसे लोगों को अधिकार देते हैं जिस का कि संविधान में कहीं जिक्र नहीं है। आखिर अन्तरिम जिला परिषद् जिस की कि बात

*Published in the Gazette of India Extraordinary Part II—Section 2, dated 26-4-1960.

†Introduced with the recommendation of the President.

की जाती है उस अन्तरिम जिला परिषद् को अपने संविधान में या पीपुल्स रिप्रेजेंटेशन ऐक्ट में कहीं पर यह लिखा कि अन्तरिम जिला परिषद् के सदस्य होंगे वह कौंसिल में वोट देने के अधिकारी होंगे, उसके लिए वोटर होंगे। कल जब डिप्टी ला मिनिस्टर साहब इस बिल को पेश कर रहे थे तो उन्होंने यह कहा कि संविधान की धारा १७१ की उपधारा ३ में यह कहा गया है :—

“As early as may be, one third shall be elected by electorates consisting of members of the municipalities, district boards and such other local authorities in the State as Parliament may by law specify.”.

उनके कहने का ऐसा मतलब मालूम पड़ा कि म्यूनिसिपैल्टीज और डिस्ट्रिक्ट बोर्ड्स के तो लिखने की जरूरत है ही नहीं लेकिन रिप्रेजेंटेशन आफ दी पीपुल्स ऐक्ट को अगर हम गौर से देखें तो पता चलता है कि इस ऐक्ट में उत्तर प्रदेश में उन्होंने म्यूनिसिपैल्टीज को लिखा, कैटोनमेंट बोर्ड्स को लिखा, टाउन ऐरिया कमेटी को लिखा और नोटीफाइड ऐरिया कमेटी को लिखा है जिनके कि मेम्बर कौंसिल के चुनाव में वोटर हो सकते हैं कौंसिल के लिए उम्मीदवार को चुनने का जिन्हें हक है। मैं कानून मंत्री महोदय से पूछना चाहता हूँ कि यदि संविधान का यह मतलब न होता कि जो म्यूनिसिपैल्टीज और डिस्ट्रिक्ट बोर्ड्स के मेम्बर हैं उनको लेजिसलेटिव कौंसिल के लिए मेम्बरस चुनने का हक होगा तो वह ऐसा साफ तौर से उसमें क्यों कहते। रिप्रेजेंटेशन आफ दी पीपुल्स ऐक्ट में इसका जिक्र किया गया है। साफ तौर से पता

लगता है कि उस वक्त सरकार का यह दृष्टिकोण था और संविधान का भी यही कहना था। दफा १७१ यह नहीं कहती कि किसी म्यूनिसिपैल्टी या डिस्ट्रिक्ट बोर्ड के मेम्बर को आप लेजिसलेटिव कौंसिल की मेम्बरी में वोट का अधिकार देना चाहें तो उसको कानून के द्वारा आप न कर सकें और उसमें कह दिया गया है कि पार्लियामेंट द्वारा उसके वास्ते कानून बनाया जा सकता है। मुझे अफसोस है कि सरकार ने उधर कोई ध्यान नहीं दिया और बड़े ताज्जुब की बात तो मुझे यह लगती है कि यह मुल्क अब तानाशाही की ओर जा रहा है। हम जनतंत्र की भावनाओं का आदर करना भूल गये हैं। उनका आदर करना हम ने छोड़ दिया है। हमारी पार्लियामेंट फरवरी में बैठ गयी थी लेकिन फरवरी से ले कर अब तक इस तरह का कोई बिल हमारे सामने नहीं लाया जाता है और अब जब बिल आता है तो कानून मंत्री महोदय कहते हैं कि उत्तर प्रदेश की अन्तरिम जिला परिषद् के सदस्यों को कौंसिल में वोट देने का अधिकार दे दीजिये और पहली फरवरी से हम उन को वोटर मान लेंगे। मैं आपसे पूछना चाहता हूँ कि यदि आप अन्तरिम जिला परिषद् के सदस्यों को पहली फरवरी से वोट देने का अधिकार देना चाहते हैं तो उसके लिये वे पहले सदन ने सामने बिल क्यों नहीं लाये? अब मंत्री महोदय इसके लिए यह कह सकते हैं कि उनके पास ऐसा करने के लिए वक्त नहीं था क्योंकि हम बजट पर बहस कर रहे थे। बम्बई और गुजरात के निर्माण के हेतु बिल लाने के लिए हमारे पास समय था और उनके बिल हम यहां लाये लेकिन इसके लिए बिल लाने का आपके पास समय नहीं था। मैं इस विषय में अधिक बहस नहीं करना चाहता कि आपके पास समय था कि नहीं लेकिन इतना जरूर कहूंगा कि जैसे ही पार्लियामेंट बैठी थी आप अगर चाहते तो उसके लिए एक बिल ला सकते थे लेकिन कानून मंत्री महोदय

[श्री बजरज सिंह]

तो दूसरी बात कहते हैं। वह कहते हैं कि उन्हें विश्वास है कि इस में कोई गैर कानूनी बात बर्ती नहीं गई है और एलेक्शन कमिशन ने जो राय दी थी वह सही बात है। मैं यह निवेदन करना चाहता हूँ कि जिस वक्त भी कोई मंत्री महोदय यह दिखाने की कोशिश करेंगे कि इस सदन के ऊपर एलेक्शन कमिशन है तो उसी वक्त हमारे देश से जनतंत्र खत्म हो जायेगा। उसमें जनतंत्र कमजोर होगा और उससे उनका खात्मा हो सकता है। पार्लियामेंट देश की सर्वोपरि सत्ता है और देश में कोई ऐसी एथारिटी नहीं है जो कि पार्लियामेंट से ऊपर हो लेकिन आपके कार्य से यह गारंटी हो जाता है कि आपको पार्लियामेंट को जो रिस्पेक्ट देना था और पूछना था उसके लिए आप तैयार नहीं हैं। आप कहते हैं कि एलेक्शन कमिशन ने राय दे दी थी इसलिये हमने उसको कर लिया। अब एलेक्शन कमिशन ने राय दी कि देश में मान्यता प्राप्त पार्टियों को मान्यता दी जायगी और मान्यता के नाम पर उन्हें रिश्तत देंगे, उन्हें कुछ मुविधाएं देंगे, एलेक्टोरल रोल्स देंगे और दूसरी दूसरी चीजें देंगे और वही एलेक्शन कमिशन कुछ पार्टियों को मान्यता नहीं देगा.....

श्री त्यागी (देहरादून) : इसमें एलेक्शन कमिशन द्वारा मान्यता दिये जाने का क्या सवाल है ?

श्री बजरज सिंह : जी मैं जरा दूसरी बात कह रहा हूँ। एलेक्शन कमिशन कहता है कि देश में कुछ मान्यता प्राप्त पार्टियां हैं उन मान्यता प्राप्त पार्टियों को आधिकार होंगे सारे मुल्क में एक निशान दिया जा सकेगा। उन को एलेक्टोरल रोल फ्री दिया जायगा और दूसरी चीजें दी जायेंगी और यह बिना किसी नियम के दी जायेंगी। मेरी राय में उस तरह का नियम और सिद्धान्त बनाने का अधिकार

एलेक्शन कमिशन को नहीं होना चाहिए और इस सदन को उसका अधिकार होना चाहिए कि हम इस तरह का कोई कानून बनायें कि नहीं लेकिन कानून मंत्री महोदय तो अब किसी बात को सुनने को तैयार नहीं है उन्हें विश्वास है कि एलेक्शन कमिशन जो भी करता है सही करता है। मैं इसमें नहीं जाना चाहता कि वह सही करता है या गलत करता है लेकिन अगर सही भी करे तो इस पार्लियामेंट को हमेशा अधिकार होना चाहिए कि वह इस बात को देखे कि कहां गलती होती है और वह उस गलती को दुरुस्त करे।

अध्यक्ष महोदय, मेरा निवेदन यह है कि रिप्रेजेंटेशन आफ दी पीपुल ऐक्ट का जो यह संशोधन करने जा रहे हैं उसमें कभी अन्तरिम जिला परिषद् के सदस्यों को लेजिस्लेटिव कौंसिल के मम्बरों के चुनाव में वोट करने का अधिकार नहीं मिल सकता था। मैंने कल यह दिखाने की कोशिश की थी और मेरे मित्र श्री त्यागी ने भी इस बात का जिक्र किया था कि आपने इसमें ऐसे लोगों को वोटिंग का अधिकार दिया है जो कि सरकारी लोग हैं। अन्तरिम जिला परिषद् ऐक्ट ने १९५८ में उत्तर प्रदेश में डिस्ट्रिक्ट बोर्डों का खात्मा कर दिया और उसकी बजाय अन्तरिम जिला परिषदें बनी थीं जिनको कि वोटिंग का हक दिया गया था लेकिन हालत यह है कि २० अप्रैल १९६० तक यह तय नहीं हो सका है कि अन्तरिम जिला परिषदों के कोई चुनाव हो सकेंगे और अब उत्तर प्रदेश के मंत्री कहते हैं कि अब हम कोई दूसरे तरह का बिल लायेंगे और दूसरे तरह का बिल यदि आता है तो मुझे विश्वास नहीं है कि १९६२ से पहले हम चुनाव करा सकेंगे। वहां उत्तर प्रदेश में २४ अप्रैल को वोट पड़े हैं और उसके फलस्वरूप २०, २४ आदमियों को उत्तर प्रदेश की लेजिस्लेटिव कौंसिल

के लिये चुना गया है। सन् १९६२ में एक तिहाई मेम्बर रिटायर होंगे। मुझे आगरे के बारे में मालूम है कि वहाँ पर ६६ सदस्य हैं जिनमें से ४० ऐसे लोग हैं जो कि सरकारी नौकरी में हैं जैसे कि पुलिस कप्तान, कमांडेंट पी०ए०सी० और इसी तरह के सरकारी लोग हैं १५ ऐसे लोग हैं जो कि सरकार द्वारा किसी प्रकार नामजद है। ६६ आदमियों में से ५५ आदमी ऐसे हैं जो कि सरकारी अधिकारी हैं आप ऐसे सरकारी लोगों को वोटिंग का अधिकार देना चाहते हैं मेरा कहना है कि अगर आपने यह अधिकार उनको दे दिया तो जनतंत्र का क्या हाल होगा। लोग चाहते हैं कि वोट स्वतंत्रता और निष्पक्षता के साथ दिये जायें। मैं यह नहीं कहता कि वह सब आपको ही वोट देंगे लेकिन आपकी इच्छा यही थी और उत्तर प्रदेश सरकार की ऐसी इच्छा थी। उत्तर-प्रदेश की सरकार ने जब यहाँ से राय चाही और एलेक्शन कमिशन ने बिना पार्लियामेंट को इस बात में विश्वास में लिए हुए अपने आप राय दे दी तो यह सही चीज़ नहीं थी। पार्लियामेंट के सामने यह चीज़ पहले आनी चाहिए थी। उत्तर प्रदेश की सरकार ने जो राय चाही तो सम्भवतः अन्तरिम जिला परिषद् ऐक्ट की धारा ४ की तरफ उनका इशारा है :—

“Official members of the antarim zila parishad shall have no right of vote at its meetings, anything contained in the U.P. District Board Act 22 or any other law notwithstanding.”

इसके होते हुए सम्भवतः उत्तर प्रदेश की सरकार की राय यह थी कि जो सरकारी मेम्बर हैं अन्तरिम जिला परिषदों के उन्हें वोट देने का कोई अधिकार होना चाहिए। इसके लिए आप कहते हैं कि नहीं हम जरूर सरकारी लोगों को वोट का अधिकार देंगे और आपने कलक्टर, पुलिस कप्तान, ए०डी० एम० आदि को वोटर बना दिया है। मैं

निवेदन करना चाहता हूँ कि इससे उत्तर प्रदेश की जनता में जनतंत्र के प्रति और खास तौर पर आपके प्रतिनिधियों के प्रति अविश्वास पैदा हुआ है और लोग ऐसा सोचने लगे हैं कि सरकारी पक्ष किसी न किसी तरह अपनी शक्ति को बनाये रखना चाहता है। इसलिए मैं निवेदन करूँगा कि यह जो अमेंडिंग बिल आपने रिप्रेजेंटेशन आफ दी पीपुल्स ऐक्ट को संशोधित करने के लिए पेश किया है इसको आप प्रतिष्ठा के साथ वापिस ले लीजिये और अगर आप उसको प्रतिष्ठा के साथ वापिस लेने को तैयार न हों तब मेरा इस सदन के माननीय सदस्यों से आग्रह होगा कि इसमें किसी पार्टी बाजी के सवाल को न उठाते हुए इस बिल को श्रौ आउट कर देना चाहिए। इसको पास करने की आवश्यकता नहीं है। इसमें हुआ यह है कि उत्तर प्रदेश की अन्तरिम जिला परिषद के सदस्यों ने आज से दो दिन पहले अर्थात् २४ अप्रैल को २४ आदमियों को कौंसिल की मैम्बरी के लिये चुना है। आप उसके दो दिन बाद हमारे पास यह बिल ले कर आ रहे हैं कि उनको वोटिंग का अधिकार दे दीजिये। पहली फरवरी से इस कानून को लागू हो जाना चाहिए था।

Mr. Speaker: When was the election?

Shri Tyagi: On Sunday last the elections were held. Elections have already been held by an electorate which is not yet recognised by this Parliament. Now, we are going to recognise it retrospectively.

श्री बजरराज सिंह : यह बिल कहता है कि हमें पहली फरवरी से अधिकार दे देना चाहिए।

Mr. Speaker: There seems to be a difference between U.P., and Andhra. So far as zilla parishads in Andhra Pradesh are concerned there are no government servants whereas in

[Mr. Speaker]

Uttar Pradesh there are a number of government servants.

Shri Braj Raj Singh: Not only that.

Shri Khushwaqt Rai (Kheri): In the Antarim Zilla Parishads of Uttar Pradesh there are many officials.

Shri Tyagi: Sir, there is another point which you might take notice of. My hon. friend has just now read out a section from the Antarim Zila Parishad Act, wherein it is said that the official members of the zila parishads shall have no right of vote in the functioning of the zila parishads. That means they have no right of vote in the day-to-day functioning. How are we giving the right of vote in the matter of elections?

Mr. Speaker: All that I want to say is, though this Bill is comprehensive and includes both Andhra Pradesh and Uttar Pradesh, there seems to be a difference of opinion. Therefore, in putting it to the vote of the House I shall put the amendment relating to Andhra Pradesh separately from the amendment relating to Uttar Pradesh.

श्री ब्रजराज सिंह : अध्यक्ष महोदय, आन्ध्र प्रदेश के बारे में तो ला मिनिस्टर का यह कहना है कि वहां की जिला परिषद् डिस्ट्रिक्ट बोर्ड नहीं है और उत्तर प्रदेश के जो जिला बोर्ड या डिस्ट्रिक्ट बोर्ड जो भंग कर दिए गए हैं उनकी जगह यह अन्तरिम जिला परिषद् है। उनका फंक्शन अलग है, उनका कम्पोजीशन अलग है, उसमें प्लानिंग का काम भी होता है। इसलिए मैं कहना चाहूंगा कि उत्तर प्रदेश की अन्तरिम जिला परिषद् डिस्ट्रिक्ट बोर्ड नहीं है और इसका आन्ध्र प्रदेश से मुकाबला नहीं किया जा सकता। मेरा निवेदन है कि वह एक गैर-कानूनी बात करने जा रहे हैं। मेरा अनुरोध है कि इसको न किया जाए क्योंकि यह जनतंत्र की भावना के खिलाफ जाता है।

अध्यक्ष महोदय : एक ही मेम्बर को इतना अधिक समय ले लेना ठीक नहीं होगा। अब माननीय सदस्य को खत्म करना चाहिए।

श्री ब्रजराज सिंह : मैं खत्म करने जा रहा हूँ।

मैं अन्त में कानून मंत्री महोदय से पूछना चाहूंगा कि क्या वह उस पत्र को सदन की मेज पर रखने के लिए तैयार हैं जो उत्तर प्रदेश की सरकार ने भेजा था और जिसमें इलेक्शन कमिशन की राय पूछी गयी थी कि उनको वोट देने का अधिकार है या नहीं या उस पत्र को सदन की मेज पर रखने को तैयार हैं जिसमें मंत्री जी ने इलेक्शन कमीशन से पूछा था कि क्या उत्तर प्रदेश की अन्तरिम जिला परिषद् के सरकारी मेम्बरों को भी वोट का अधिकार दिया जा सकता है।

अन्त में मैं निवेदन करूंगा कि यह ऐसा कानून है कि इसको इस सदन में लाकर सदन की प्रतिष्ठा को कम करने की कोशिश नहीं की जानी चाहिए थी। इसको वापस लिया जाना चाहिए क्योंकि यह जनतंत्र की भावना के खिलाफ जाता है। यह कानून लैस कानून है और जनतंत्र की भावनाओं के खिलाफ है। इसलिए मेरा अनुरोध है कि इसको वापस ले लिया जाए।

Some Hon. Members rose—

Mr. Speaker: Shri Muchand Dube. Now, what shall we do? Out of 1 hour 10 minutes 15 minutes have already been taken. One hour was given for the consideration stage of the Bill.

Shri Tyagi: The amendments have yet to be made.

Mr. Speaker: Shall I allow the amendments to be moved now so that all the amendments and the clauses

will be before the House and hon. Members can speak on all of them?

Shri Tyagi: Sir, we would like to take each amendment into consideration in the regular manner.

Mr. Speaker: I agree. What I say is let us proceed straight away to the clauses and the amendments. Whatever hon. Members want to say now they may speak on the clauses.

Shri Sinhasan Singh (Gorakhpur): There are only two clauses on which amendments have been tabled. Hon. Members may be allowed to express their opinion on them now.

Pandit Thakur Das Bhargava (Hissar): Sir, the amendments are based on the general clauses of the Bill. After clarification of the general clauses I do not think the amendments will take much time.

Mr. Speaker: My fear is, though everything that is to be said on the clauses is said in the general discussion our habit is to once again make submissions on clauses. After all, the point is clear. What is sought to be covered by general discussion is the same thing as in clauses. We shall proceed to clauses and hon. Members may speak on them.

The Deputy Minister of Law (Shri Hajarnavis): Sir, may I make a submission? The point of controversy between hon. Members opposite, Shri Tyagi and the sponsors of this Bill is about the interpretation of the phrase "members of a district board". In the Constitution under article 171, it has been stated that the electorate shall be formed of members of a district board. Now, the words "district boards" have not been defined anywhere, either in the General Clauses Act or anywhere else, just as the word "municipalities" has also not been defined.

Mr. Speaker: Is there a District Board Act?

Shri Tyagi: There was.

Shri Hajarnavis: In Uttar Pradesh there was a District Board Act. In 1958 an Ordinance was promulgated and district boards were dissolved. In their place Antarim Zila Parishads were created.

Pandit Thakur Das Bhargava: No, Sir, it is wrong.

Shri Hajarnavis: The Act goes on to say: "The Antarim Zila Parishad shall be deemed to be a District Board, it will have all functions of a District Board". Therefore, we say that it is a like case as the House of the People is now called Lok Sabha. It is only a change in nomenclature.

Shri Khushwaqt Rai: It is not a change in name.

Shri Hajarnavis: This is according to my opinion, you may have your own opinion.

Shri Sinhasan Singh: District Boards and Antarim Zila Parishads are two quite different things.

Shri Hajarnavis: That being the position, if a person was a member of the District Board under the Constitution he was to be included. (*Interruption*).

Mr. Speaker: Order, order. I will take up the clauses now. I shall put the motion to the vote of the House and proceed to the clauses. Hon. Members may then say what all they want to say. We shall clinch the issue on the clauses. Would that be all right?

Pandit Thakur Das Bhargava: May I submit, Sir, that in this case it is not only the clauses or the substance of the term "District Board" that is involved, it is a question of fundamental importance so far as the Constitution is concerned. They are contravening the Constitution itself. Unless and until the Constitution is changed they cannot change the word "District Board". After all, they are referring to an Act which has been

[Pandit Thakur Das Bhargava]

passed by the State Legislature. An Act of the State Legislature has no precedence over the Constitution itself.

Mr. Speaker: It comes under clause 5; "under the heading 'Andhra Pradesh', for the entry '2. District Boards', the entry '2. Zilla Parishads' shall be substituted."

Pandit Thakur Das Bhargava: My hon. friend, the Deputy Law Minister says that under this Act "District Boards" have been replaced by "Antarim Zila Parishads". But this is only an Act of the State Legislature. We have got to see the Constitution. The Constitution speaks of District Boards and other bodies which are specified by Parliament. We have not yet specified that District Boards are Zila Parishads. Therefore, the Constitution is being contravened here. My hon. friend is not looking into it.

Mr. Speaker: It is a matter of substance. He says that at the time we passed the Constitution we had the District Boards in view, but now they want to change it to Zilla Parishads.

Shri Tyagi: That has not been the case in Uttar Pradesh.

Mr. Speaker: I am not referring to U.P. alone, wherever it may be it is merely a change of name. If it is only a change in name there is no need to change the Constitution.

Shri Sinhasan Singh: It is not merely a change of name.

Mr. Speaker: It is the Representation of the People Act that is being amended here. Under the Constitution the right to vote is given only to members of particular bodies when election to the Council is held. If there is any new institution that is brought into existence, without the Constitution being amended it cannot be included. If it is only a change of name from "District Board" to

"Antarim Zila Parishad", there cannot be any difficulty.

Pandit Thakur Das Bhargava: It cannot be changed by the State Legislature; there is a difference between the two.

Shri Tyagi: May I invite your attention, Sir, to article 171(3) of the Constitution, where it is said:

"(3) Of the total of members of the Legislative Council of a State—

(a) as nearly as may be, one-third shall be elected by electorates consisting of members of municipalities, district boards and such other local authorities in the State as Parliament may by law specify;"

Now under Section 27(2) of the Representation of the People Act, 1950, we have specified district boards etc. under the Schedule. Against U.P. we say: "municipalities, district boards, cantonment boards, small-town committees and notified area committees". These are the bodies which the Parliament has by law specified, and therefore, according to the Constitution, these and these bodies alone can participate in the elections to the Legislative Council.

Mr. Speaker: I would ask Shri Tyagi one thing. The wording in the Constitution is:

"and such other local authorities in the State as Parliament may by law specify."

This is what is intended by Shri Tyagi. So, his point is an Act of Parliament or the Bill placed before Parliament must specify the Zilla Parishad.

Shri Tyagi: Parliament is authorised to specify and Parliament might add, besides the district board, any other organisation. Therefore, we are entitled to specify it. But the ques-

tion is, so long as we have not specified any extra body or given recognition to any other organisation, they cannot hold election with such a body. It does not exist and we have not specified it, and still they want to give retrospective effect.

Mr. Speaker: What the hon. Member wants to know is whether this can be given retrospective effect. At the time when the election took place, he says, it was illegal and they had no right.

Pandit Thakur Das Bhargava: Apart from that, there is another point also. They want that the district board should be substituted by these words. The district board has been specified in the Constitution, and as long as the Constitution is there, we cannot have any other body other than the district board. They want to substitute "district boards" by "Zilla Parishads". The district board, according to the Act of the State of Uttar Pradesh, may or may not have been replaced, but we are not concerned with it. We are not concerned with the State legislature. They can add one more, namely, the Zilla Parishads, if they like by specifying under 171(3). But we cannot take away the district board without changing the Constitution.

Mr. Speaker: When the hon. Member says that the words can be added, cannot the words be subtracted also?

Pandit Thakur Das Bhargava: There is no provision in the Constitution.

Mr. Speaker: The Constitution says:

"members of municipalities, district boards and such other local authorities in the State as Parliament may by law specify;"

Now, we are discussing a law which intends to specify Zilla Parishad, which can come under "such other local authorities". Now, we will assume that in a particular State, a local board under the law in the State is superseded and an executive autho-

rity appointed both for the municipality and the local board. Then, they have in their place, "such other bodies" or some other local authorities. Are they not entitled to proceed?

Shri Tyagi: We shall have to specify.

Mr. Speaker: It is open to the State Governments or the provincial Governments to keep a district board or supersede a district board and vest the entire management in the hands of a single authority in which case there is no district board, and therefore, there are no members there. What they want to say is, in the State of Uttar Pradesh, after this Bill is passed by Parliament here, there will be the Zilla Parishads and there would not be the district boards.

Shri Braj Raj Singh: The Uttar Pradesh Act says: "This shall be deemed in law to be the district board".

Mr. Speaker: This Zilla Parishad will be deemed to be the district board.

Shri Braj Raj Singh: They should change the Constitution then. They cannot change the name by bringing an amendment to the Representation of the People Act.

Mr. Speaker: Let me not decide the matter. It is for the House to decide it. All that I am anxious about is to keep the time-limit that has been prescribed for the Bill and get along with the work. I have no objection to extend the time because so many other Members are interested. Let me know the mood of the House: whether they want to continue to discuss the Bill on the motion for consideration or take up the clauses.

Shri Tyagi: Sir, there is another point which I request you to decide. Are we entitled to just legalise an action which has been taken in violation of the very spirit of the Constitution, because we have not specified any other body in the Constitution. They have allowed the Zilla Parishads

[Shri Tyagi]

to participate in the elections of a constitutional organisation, namely, the legislative council, of a State. Further, 45 per cent. of them are district magistrates, superintendents of police, etc.

Pandit Thakur Das Bhargava: There is another question. If you see clause 5, it would appear that they want to substitute for the words "District Boards" the words "Zilla Parishads", whereas the Zilla Parishads are entirely and absolutely different bodies and in U.P. no Zilla Parishad is in existence.

Mr. Speaker: The Constitution says, "such other local authorities". Shri Tyagi has raised the point as to whether it is open to the authorities to put these words in, whether it is *ultra vires* or *intra vires*, and whether this can have retrospective operation. In all such cases, after all, the Speaker does not take the responsibility on himself to decide whether this ought to be done or ought not to be done. It is for the House to decide what ought to be done or ought not to be done in the circumstances.

So far as the Bill is concerned, it is an amendment, and it is for the House to accept or not to accept. Therefore, I do not propose to give any direction as to whether it is legal or illegal. The House is competent to pass any legislation. It is for others to decide whether it is legal or illegal.

I will extend the time by one hour. Originally, it was three hours. We started at about 1 o'clock. According to the original schedule, 1 hour and ten minutes remained. Now, it will be two hours and ten minutes. Thus, the debate will be concluded by 3.10. For the clauses, how much time do hon. Members want?

Shri Sinhasan Singh: Half an hour.

Shri Braj Raj Singh: One hour.

Mr. Speaker: After all this discussion that has taken place, I think half an hour will be sufficient for clause-by-clause consideration. We will start clause-by-clause consideration at 2.30 unless the general discussion is completed earlier than that. I would request hon. Members to state the points only, in view of the shortness of time at our disposal.

Shri Mulchand Dube (Farrukhabad): I would like to read to the House article 171 of the Constitution. to begin with Article 171(1) says as follows:

"The total number of members in the Legislative Council of a State having such a Council shall not exceed one-third of the total number of members in the Legislative Assembly of that State:

"Provided that the total number of members in the Legislative Council of a State shall in no case be less than forty."

13.28 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

Then, sub-clause (2) says:

"Until Parliament by law otherwise provides, the composition of the Legislative Council of a State shall be as provided in clause (3)."

Clause (3) (a) reads as follows:

"Of the total number of members of the Legislative Council of a State—

(a) as nearly as may be, one-third shall be elected by electorates consisting of members of municipalities, district boards and such other local authorities in the State as Parliament may by law specify;"

So, it will be clear that clause (3)(a) is subject to clause (2), that is, Parliament has got the power to amend sub-clause (a) also. Parliament has got the right or the power to amend all these sub-clauses, namely, (a), (b), (c), (d) and (e). The point that has been raised by my hon. friend, Shri Tyagi, namely, that we shall be amending the Constitution by this process, is not correct. It is the duty of Parliament to amend the manner in which a legislative council should be elected. If this power lies in Parliament, namely, to amend the manner in which the council is to be elected, it has also got the power to amend clause (3) (a) and to substitute Antarim Zilla Parishads for the "District Boards". There is no difficulty about that. The question, therefore, as far as I can see, is clear to me. The Antarim Zilla Parishad is not a district board constituted under the Act of 1922. But I have no doubt that, while it is not the district board under the District Boards Act of 1922, it is a local authority constituted by the Antarim Zilla Parishads Act of 1958. There is no doubt about the fact that it is a local authority.

The question, therefore, arises whether that local authority can or cannot be given the power to elect 39 members to the State Legislative Council. My submission is that that power can be given, and there can be no difficulty about it so far as the law is concerned. The point is whether these official members should or should not be given the right to vote in the election of members to the Legislative Council.

Mr. Deputy-Speaker: If it had been included in the other local authorities, the Parliament must have specified that by law beforehand.

Shri Mulchand Dube: It is specified by the Bill that is before the House where it is said, instead of 'district boards', substitute 'Antarim Zilla Parishads'. So, it is specified by law.

Mr. Deputy-Speaker: The hon. Member means that this is district board?

Shri Mulchand Dube: When this Bill specifies it, there is no difficulty about that. It is a local authority.

Shri Tyagi: But the High Court has given a distinct ruling.

Shri Mulchand Dube: Of course, I admit that it is a different thing altogether. The Antarim Zilla Parishad is a different body; it is not a district board constituted by the Act of 1922. The question is whether it is a local authority or not and if it is a local authority, whether or not Parliament has got power to substitute this for the district board. My submission is, according to article 171(2), Parliament has got that power.

Pandit Thakur Das Bhargava: It is only a question of substitution, not of specification.

Ch. Ranbir Singh (Rohtak): The words 'district board' can be amended only in a constitutional way.

Mr. Deputy-Speaker: All the hon. Members who are interrupting desire to speak. They will have that opportunity to participate and express their opinion.

Shri Mulchand Dube: Article 171(2) says:

"Until Parliament by law otherwise provides, the composition of the Legislative Council of a State shall be as provided in clause (3)."

My submission is Parliament provides by this Bill that the composition of the Council shall be as modified by this Bill and district board will be substituted by the Antarim Zilla Parishad so far as the Legislative Council is concerned. This does not in any way go counter to the Constitution. In fact, it is in accordance with the Constitution that the Bill is being introduced.

The question, however, arises as to whether it is at all proper to give this right of vote to the official members

[Shri Mulchand Dube]

of the Antarim Zila Parishad. This may or may not be a proper thing to do, but the further question arises, which was the better course to follow? If district boards had been dissolved in U.P., what about the members who are sitting at the present moment? Their constituency has disappeared. (Interruption). When a constituency has disappeared, another constituency is substituted by this Bill and it is perfectly correct.

With these words, I support the Bill.

श्री श्रीनारायण दास (दरभंगा) :
उपाध्यक्ष महोदय, जो विधेयक अभी हमारे सामने विचारार्थ आया है, उस विधेयक के पीछे जो भावना है उसको देखने हुए मैं समझता हूँ कि उसको ठीक तरह से विचार करके पेश नहीं किया गया है।

जैसा कि कई माननीय सदस्यों ने कहा है, संविधान की धारा १७१, उपधारा ३ के मुताबिक एक निर्वाचन क्षेत्र बनता है राज्य के अन्दर जो म्युनिसिपैलिटीयां, डिस्ट्रिक्ट बोर्ड और भी जो दूसरी लोकल आथारिटीज हों उनके सदस्यों से। इस विधेयक में दो राज्यों के सम्बन्ध में संशोधन किया जा रहा है। एक संशोधन आन्ध्र प्रदेश के सम्बन्ध में है। वहाँ पर उन्होंने डिमाक्रेटिक डिसेंट्रलाइजेशन के मुताबिक जिला परिषद की स्थापना की है, पर वहाँ अभी चुनाव नहीं हुआ है। लेकिन उत्तर प्रदेश में जिला परिषदों की अभी स्थापना नहीं हुई है, पर उन्होंने कानून बना कर अन्तरिम जिला परिषद के नाम से एक संस्था कायम कर दी है। अब सवाल यह उठता है कि संविधान की धारा १७१ की उपधारा ४ के मुताबिक पार्लियामेंट को यह अधिकार है कि राज्य विधान परिषद के लिए चुनाव क्षेत्रों का निर्माण करे, और उसी अधिकार के मुताबिक सन् १९५० में रिप्रेजेंटेशन आफ पीपल्स ऐक्ट बनाया गया

जिसकी धारा २७ में कहा गया है कि इलेक्टोरल रोल को किस तरह से बनाया जाये। इस कानून में संविधान की धारा १७१, उपधारा ४ के मुताबिक एक शिड्यूल का निर्माण किया गया है जिसमें संविधान में जिन संस्थाओं: जैसे म्युनिसिपैलिटी, डिस्ट्रिक्ट बोर्ड आदि को दिया गया है उनको तो शामिल किया ही गया है, उनके अलावा दूसरी लोकल आथारिटीज को भी जोड़ने की कोशिश की है। इस शिड्यूल में जो कि धारा २७ की उपधारा २ के मुताबिक है, यह दिया हुआ है :

“Local authorities for purpose of elections to the Legislative Council”.

इसमें विभिन्न राज्यों के लिए विभिन्न लोकल आथारिटीज का जिक्र आया है। बिहार के लिए म्युनिसिपैलिटीज हैं, डिस्ट्रिक्ट बोर्ड हैं, कंटोनमेंट बोर्ड हैं और नोटीफाइड एरिया कमेटीज हैं। इसी तरह से दूसरी जगहों के लिए भी हैं। पार्लियामेंट को यह स्पेसीफाई करने का अधिकार है कि किसी भी राज्य में निर्वाचन क्षेत्र में कौन कौन सी संस्था के सदस्य मतदाता होंगे। रिप्रेजेंटेशन आफ पीपल्स ऐक्ट के शिड्यूल में म्युनिसिपल बोर्ड, डिस्ट्रिक्ट बोर्ड, कंटोनमेंट बोर्ड, नोटीफाइड एरिया कमेटी दी गयी हैं। मैं यह बताना चाहता हूँ कि संविधान में जिन संस्थाओं को दिया गया है, उनको भी इस शिड्यूल में रखा गया है साथ ही यह भी रखा है कि अगर पार्लियामेंट किसी और संस्था को जरूरी समझे तो उसको भी इस में शामिल कर सकती है। बम्बई में उन्होंने म्युनिसिपैलिटी, डिस्ट्रिक्ट बोर्ड और कंटोनमेंट बोर्ड को रखा है, मद्रास में इन तीनों संस्थाओं के अलावा पंचायतों को भी रखा है। तो यह अधिकार पार्लियामेंट को है कि म्युनिसिपैलिटी और डिस्ट्रिक्ट बोर्ड और कंटोनमेंट बोर्ड के अलावा, और भी जिस संस्था को आवश्यक समझे उस निर्वाचन क्षेत्र में शामिल कर सकती है।

अब आप देखें कि बिहार में डिस्ट्रिक्ट बोर्ड अब बालिश कर दिये गये हैं। और वहां बाइ एनियल इलेक्शन हो रहे हैं। वहां पर सरकार ने डिस्ट्रिक्ट बोर्ड की जगह जिला डेवेलपमेंट कमेटी और ब्लाक डेवेलपमेंट कमेटी बनायी हैं, लेकिन उनको किसी कानून के मातहत नहीं बनाया है, केवल एक सरकुलर के द्वारा उनका निर्माण किया गया है। लेकिन उनके मेम्बरों को वोट देने का अधिकार नहीं दिया गया है। इस समय बिहार में इस इलेक्शन के लिए केवल म्यूनिसिपैलिटी, कॉटोनमेंट बोर्ड और नोटीफाइड एरिया कमेटी के मेम्बरों को ही अधिकार है। डिस्ट्रिक्ट बोर्ड तो वहां टूट ही चुके हैं। इसी प्रकार से उत्तर प्रदेश में भी डिस्ट्रिक्ट बोर्ड टूट चुके हैं। मैं समझता हूँ कि उत्तर प्रदेश की अन्तरिम जिला परिषदों के सदस्यों को मत देने का अधिकार देकर इलेक्शन कमीशन ने गलती की है। इलेक्शन कमीशन को यह सोचना चाहिए था कि जब तक पार्लियामेंट स्वीकृति न दे दे और रिप्रेजेंटेशन आफ पीपल्स ऐक्ट में संशोधन करके अन्तरिम जिला परिषद को लोकल आथॉरिटीज की सूची में शामिल न कर दे तब तक उसके सदस्यों को वोट देने का अधिकार नहीं दिया जा सकता। जिस समय उत्तर प्रदेश की सरकार ने इलेक्शन कमीशन से पूछा था कि अन्तरिम जिला परिषद के सदस्यों को वोट का अधिकार दिया जाये या नहीं, उस समय इलेक्शन कमीशन को केन्द्रीय सरकार में कहना चाहिए था कि वह ऐक्ट में इस तरह का संशोधन कर दे ताकि अन्तरिम जिला परिषद के सदस्यों को वोट का अधिकार दिया जा सके। लेकिन उसने ऐसा नहीं किया और उनको वोट का अधिकार दे दिया और उत्तर प्रदेश में चुनाव भी सम्पन्न हो गये। मैं समझता हूँ कि यह गैर मुनासिब बात हुई है। पार्लियामेंट के अधिकार को न तो उत्तर प्रदेश की विधान सभा अपने हाथ में ले सकती है और न इलेक्शन कमीशन पार्लियामेंट के अधिकारों को अपने हाथ में

ले सकता है। इसलिए जो चीज मंत्री जी कहते हैं, मैं उसको अनुचित समझता हूँ।

अगर यह सदन की राय हो कि उत्तर प्रदेश की अन्तरिम जिला परिषद के सदस्यों को वोट देने के सवाल पर विचार किया जाये तो वह ऐसा कर सकती है और वह अधिकार दे सकती है। लेकिन इन अन्तरिम जिला परिषदों का जो कम्पोजीशन है, उसको देखते हुए मैं समझता हूँ कि इनके सदस्यों को वोट का अधिकार देना गैर मुनासिब होगा और हमारे संविधान के पीछे जो भावना है उसके भी यह खिलाफ होगा। जो सूची श्री त्यागी जी ने सुनायी है उसमें ट्यूब वेल इंस्पेक्टर जैसे अधिकारी तक इस परिषद के मेम्बर हैं। मैं समझता हूँ कि उन को वोट का अधिकार देना गैर मुनासिब होगा। जब उत्तर प्रदेश में कानून के अनुसार जिला परिषदें कायम हो जायें तो उनके सदस्यों को वोट का अधिकार देने के सवाल पर विचार किया जा सकता है। उस समय पार्लियामेंट के सामने वह बिल विचार के लिए पेश हो सकता है। जहां तक मेरा ख्याल है, इस विधेयक में जहां तक आन्ध्र का सवाल है, वह तो हम को मान लेना चाहिए। आन्ध्र प्रदेश में जिला परिषद का कांस्टीच्यूशन कैसा है, यह मैं नहीं जानता, लेकिन उस में ये शब्द जरूर जोड़ देने चाहिए कि जिला परिषद् के इलैक्टड मेम्बरज को कौंसिल के चुनाव में वोट देने का अधिकार दिया जाये। अगर यह मान लिया जाये, तो फिर यह संविधान की स्पिरिट के खिलाफ नहीं होगा।

कल माननीय सदस्य, श्री खुशवक्त राय, ने यह सवाल उठाया कि सिद्धान्ततः कांस्टीच्यूशन के मुताबिक इलैक्टड मेम्बरज को ही वोट देने का अधिकार होना चाहिए। कांस्टीच्यूशन की यह भावना होगी, लेकिन उस में ऐसी कोई बात नहीं है। मैं बिहार के डिस्ट्रिक्ट बोर्ड और म्यूनिसिपल कमेटीज के बारे में

[श्री श्रीनारायण दास]

जानता हूँ। वहाँ पर अभी भी दो तरह के सदस्य होते हैं—तीन-चौथाई सदस्य ऐसे होते हैं, जो कि बिल्कुल जनता के द्वारा चुने जाते हैं—तीन-चौथाई नहीं, कुछ ज्यादा होते हैं और छठवाँ हिस्सा सदस्य नामजद होते हैं, कुछ नामजद सदस्य होते हैं। संविधान में इस सम्बन्ध में यह कहा गया है :—

“as nearly as may be, one-third shall be elected by electorates consisting of members of municipalities, district boards and such other local authorities in the State.....”.

यहाँ पर “इलैक्टिड” शब्द नहीं लिखा हुआ है। जो भी मेम्बर होंगे, चाहे नामिनेटिड हों और चाहे इलैक्टिड हों, दोनों को वोट देने का अधिकार होगा। लेकिन मैं समझता हूँ कि संविधान की स्पिरिट यह है कि ज्यादा से ज्यादा सदस्य इलैक्टिड होने चाहिएँ।

श्री त्यागी : मैं माननीय सदस्य की इत्तला के लिए कह दूँ कि यू० पी० ने जो अन्तरिम जिला परिषद् एक्ट पास किया है, उस में एक धारा है कि जितने आफिशियल्ज हैं, वे इस में वोट नहीं कर सकेंगे, वे इस के मेम्बर होंगे।

श्री श्रीनारायण दास : अगर इस सदन के बहुमत की यह राय हो कि यू० पी० की अन्तरिम जिला परिषद के सदस्यों को भी वोट देने का अधिकार दिया जाये—मेरी यह राय नहीं है, मैं नहीं चाहता कि उन को वोट देने का अधिकार हो—तो वह डिस्ट्रिक्ट बोर्ड को हटा कर उस की जगह पर जिला परिषद को रख कर नहीं होगा। इस पार्लिमेंट को किसी स्थानीय अथारिटी का नाम दर्ज करने का अधिकार है। तो उस के मुताबिक अन्तरिम जिला परिषद को स्थानीय अथारिटी समझ कर उस के सदस्यों को वोट देने का अधिकार दिया जा सकता है। ऐसा हो सकता है। मैं इस बात को मानता हूँ।

श्री खुशवन्त राय : आन ए प्वायंट आफ़ पर्सनल एक्सप्लेनेशन। कल मैं ने जो भाषण

दिया था, उस में मैं ने यह नहीं कहा था कि कांस्टीच्यूशन में यह है, बल्कि मैं ने उस की भावना की बात कही थी।

पंडित ठाकुर दास भागवत : जनाब डिप्टी स्पीकर साहब, जो बिल हमारे सामने है, उस को पढ़ कर मुझे थोड़ी सी हैरानी हुई। वह इस तरह हुई कि

Shri Rami Reddy: He may speak in English so that we can also get the benefit of his speech.

Pandit Thakur Das Bhargava: All right. So far as the provisions of this Bill are concerned, they gave me a great surprise. So far as the Law Ministry is concerned, which has brought this Bill, it appears that it has not appreciation why article 171 was passed by the Constituent Assembly. In fact, if you kindly look at the article, a close perusal of the article will show that there were several ideas in the background which weighed with the Constituent Assembly in incorporating this article. In the first place, you will be pleased to see that while considering, apart from Parliament how the State Legislatures were to be constituted, so far as the Assemblies are concerned, they have specifically provided that they will all be elected. The essence of democracy is that the legislature should consist of elected members. What did we do in the case of Legislative Councils? We provided that one third of the members shall be elected by the elected representatives in the Assembly, one-third of the members shall be elected by the elected representatives of district boards and municipalities—of course, the words “elected members” are not used in the article, but I will just submit for your consideration that this was the underlying idea—and out of the rest one-third, one-twelfth shall be elected by graduates, one-twelfth shall be elected by the teachers and the rest shall be nominated by the Governor. So, if you look into it closely you will find that predomi-

nantly the State Legislature was to be elected body so that democracy may be complete in the States also

Now, when the words "members of municipalities, district boards and such other local authorities in the State as Parliament may by law specify" were used, the Constitution-makers were having in view the set-up existing at that time. They knew that the municipalities are generally all elected, not that there is not a single member who is not elected but, at the same time, they are predominantly elected. Similarly the district boards throughout India were predominantly elected. So far as U.P. is concerned, all members were elected. Not only that, but even the non-official chairman was also elected, not by the members of the board but by another kind of suffrage which includes the whole district. So, even the non-official chairman was elected by the whole district. That was the system prevailing in U.P., which was different from that of Punjab and other places.

My hon. friend, Shri Dube, read out clause (2) of article 171 also. May I humbly suggest in reply that this Bill is not meant to alter the composition of the Legislature. You will be pleased to find that in article 171(2) the words are:

"Until Parliament by law otherwise provides, the composition of the Legislative Council of a State shall be as provided in clause (3)."

This Bill is not meant to alter the composition of the Council. This Bill is only brought with a view to see that in clause (3) some change is made; it is not brought here for the purpose of altering the composition of the Legislature. Now, these words have only one meaning and that is this, this Parliament alone and no other body on earth can enact a law, so far as the constitution of the State

Legislatures is concerned. Even the composition can be changed only by Parliament and not by State Legislature.

Now I shall have occasion to show that this State Legislature of Uttar Pradesh is usurping the powers of the Parliament itself. Otherwise, they cannot even alter the composition—and that too not directly, because this Bill is not meant for that purpose. The net result of this will be that even the composition of the Council will be changed. Because, if you kindly look at sub-clause (3)—I will refer to sub-clause (3) before I refer to sub-clause (2)—the words are:

"Of the total number of members of the Legislative Council of a State—

(a) as nearly as may be, one-third shall be elected by electorates consisting of members of municipalities, district boards and such other local authorities in the State as Parliament may by law specify;"

This is how sub-clause (3) reads, and that is the crux of the matter.

Now the hon. Minister has stated that the Election Commission is supposed to have passed an order, so far as the election is concerned.

Under the provisions of the Representation of the People Act, the Election Commissioner and those working under him decided as to who are to be electorates. Who is the Election Commissioner to decide? Under article 171(3) the electorates were to be those mentioned there. It says:

"Of the total number of members of the Legislative Council of a State—

as nearly as may be, one-third shall be elected by elec-

[Pandit Thakur Das Bhargava]

torates consisting of members of municipalities, . . .”

Now, this is all right; I have no quarrel with that.

“ . . . district boards . . .”

Even there I have got no quarrel.

“ . . . and such other local authorities in the State as Parliament may by law specify;”

Now, my simple question is this. Has the Parliament specified them? Has the Parliament ever held that these Antarim Zilla Parishad members shall constitute the electorate? Who is this Election Commissioner to decide? Who is this Law Ministry? Who are they compared to the Parliament? Parliament alone can decide as to what the electorate should be. It is not by an executive order that they can change the entire electorate of the country. These electorates could only consist of members of district boards, municipalities and all other local bodies which are specified by the Parliament. So far the Parliament has not specified any other body except these two, namely, the municipalities and the district boards. Except under section 27(2) of the Representation of the People Act they have specified three other bodies, namely, the cantonments, the notified areas and one other so far as U.P. is concerned. You kindly consult that.

Then, under section 27(2) of the Representation of the People Act the names of five bodies are given. District boards and municipalities were there by the very words which are used in article 171(3) and three more were specified under the residuary power of Parliament. So the Parliament specified three bodies. Now I am given to understand that on such and such a date in February, this electorate was formed. By whom? It was not by the order of the Parliament but by the order of the Election Commissioner or the local authority,

or perhaps the Law Ministry or somebody else. They put these persons—members of Interim Zilla Parishad in the electorate and they were asked to elect those people.

Shri Tyagi: On the 17th March.

Pandit Thakur Das Bhargava: On the 17th March. I say it is strictly illegal. It is usurping the power of Parliament. Therefore it is entirely illegal to do that. They could not be members of the electorate unless the Parliament ordered that Zilla Parishad should be included as specified in exercise of the Powers of Parliament under 171(3).

Now there is another point which has practically been conceded very rightly by the hon. Minister. I am very thankful to him. I really thought that he is a Minister who is a man of his convictions and courage when he admitted it. Yesterday he admitted, “Left to myself, I would not like that these members of the Antarim Zilla Parishads who are in the service of the Government should have a vote”. That is left to himself, but he pleaded his inability. I fully see what he meant. He said, “as long as the words ‘district board’ are there and they are members of the district board as the U.P. Government has passed a law under which these district boards have been replaced by the Antarim Zilla Parishads, I have got no option in the matter.” So he thinks that his hands and feet are tied and he has no option in the matter. I am certainly bound to tell him that this is absolutely a fallacious and a wrong argument.

Now, some arguments have been put forward about the constitution of these Zilla Parishads and the district boards. He even made one more admission which, it must be said to his credit, was a right one. I do not think that even a single hon. Member of this House is desirous of seeing that so far as these Antarim Zilla Parishads

are concerned, those persons who are in the service of the Government should be given the right to elect these persons. Out of 96 or 80 persons, 30 or more—the list is given in this Bill of 1958 and if I read it out to you some time will be taken; I will request you to kindly go through it—are nominated or are official members. They have given the list of persons who are the members. Almost all of them are nominated. Then the official members are the district magistrate, district planning officer, all the sub-divisional officers, district supply officer, district animal husbandry officer, district employment officer—a full list is given of about 30 or 40 men. All those persons will be members of the planning committee. Now that planning committee is the Antarim Zilla Parishad. The planning committee and the members of that committee are now constituted in the Zilla Parishads. In the Zilla Parishads all the members are there. Apart from that, only five or ten persons are there who can be said to have any elected status. Now it is a planning committee. Presumably, it is not a district board.

My hon. friend has said in the Bill itself also that this is a new body. There can be no manner of doubt that this Antarim Zilla Parishad is certainly a new body. It is not a district board. Who can say that it is a district board? My hon. friend says that this Act says that it is a district board. Is the State legislature to be our guide? This Act is regarded as a scrap of paper so far as the Parliament is concerned. It is the Parliament who alone can say whether it can be said to be a district board and whether within the meaning of the Constitution a district board is not a district board. Here the claim is that the word 'Zilla Parishad' be substituted for the words 'district boards'. So it cannot be a district board. It is a substitute and a person and a substitute which is going to be substituted can not be identical. That is common ground in the Bill also. They say these are new local bodies.

I am just referring him to the ruling which was read out to the House by Shri Tyagi yesterday. The High Court judge has also said that these are distinct bodies and quite different bodies. Now, look at the Constitution itself. The Constitution has said that in the district board every person including the President is an elected person, whereas in this I should say except for some people more than 40 per cent. are persons who are in the service of the Government or are not elected but are nominated. Very few are elected persons. Now what is the result?

I must submit that if you kindly look at the whole thing and how it is going to result, you will come to the conclusion that we will be committing a fraud of the Constitution if we said that the words 'district board' used in the Constitution which have so far not been changed mean Zilla Parishad. What will be the effect? There are 52 districts in U.P. Suppose that 50 persons in every place were in the service of the Government and they take into their head to combine—under the order of the Government they can vote for certain persons who belong to a particular party . . .

Shri Narasimhan (Krishnagiri): Though they have no vote in the Zilla Parishad itself.

Pandit Thakur Das Bhargava: To that I am coming. But now see the result of it. It is a one-third part or the Council . . .

Shri Tyagi: 40 per cent.

Pandit Thakur Das Bhargava: . . . which ought to have been sent there by municipalities, who should be elected persons. Members of these district boards are all elected. They will nominate such persons about half of whom will be in the service of the Government. The Government people can combine very easily. The Government can issue a circular saying, "All right. All the Government servants should do like that". It means that this Council will not

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consist of elected people but will consist of persons who will not be independent and who will not be democratically elected. Therefore this Council, one part of the legislature, will be a sham legislature in my opinion. It is entirely wrong to allow these persons to vote. It is against the accepted principles on which this Article 171 was passed by the Constituent Assembly. Now by saying that we are usurping the powers of the Constituent Assembly. After all who can decide this? So far as the legislature is concerned, as I have read out to you, even now if the composition is to be changed it is to be changed by the Parliament alone. In this indirect way they are changing the entire composition of the Legislative Council there. Therefore . . .

Shri Thirumala Rao (Kakinada): Has the Government of India Act defined in any way as to what constitutes a district board, a local area committee or a municipality? Under whose authority do we constitute these local bodies? Is it the recognised authority of the State legislature to constitute these bodies?

Pandit Thakur Das Bhargava: When the words 'district board' were used here, we knew what district board was. So far as U.P. was concerned, it was constituted under the Act of 1922 . . . (Interruption).

Shri Sinhasan Singh: Only half an hour is left for the clause by clause consideration.

Mr. Deputy-Speaker: I am to call the hon. Minister at 2:10.

Pandit Thakur Das Bhargava: At 2:10?

Shri Sinhasan Singh: I am afraid the hon. Member will take away all the time.

Mr. Deputy-Speaker: Yes, at 2:10 because at 2:30 the next stage is taken up and he has to have 20 minutes.

Shri Sinhasan Singh: I also wanted ten minutes to place my view.

Mr. Deputy-Speaker: If he wanted to make a request to Panditji he could have whispered this into his ears instead of interrupting . . . (Interruption). Order, order now.

Pandit K. C. Sharma (Hapur): Let Panditji exhaust himself.

Shri Hajarnavais: I object.

14 hrs.

Pandit Thakur Das Bhargava: You yourself see that now I am not taking so much time of the House. My only apology for taking part in the debate as a matter of fact is the importance of the subject. I feel that it is a most important question. It is an all-India measure. The powers of the Parliament are sought to be invoked. Tomorrow there will be other States having such *parishads*, and they will be affected. If you pass this Bill, Punjab, for instance, will be affected, and we shall lose democratic legislatures. In our legislatures we will have only those persons who are elected by persons in the service of Government. What will happen to section 123(7) of the Representation of the People Act, whereby elections become void if there is the influence of Government servants, but here they are allowed to vote in the elections. Who is the nominated person who will not vote for his choice if he knows that the Collector is the President? This is a Bill of such a fundamental importance, that no person should grudge time for its discussion. It is the very essence of democracy that we should have the Councils elected through elected people. This is my apology for taking sometime. At the same time, I do not want to deprive other Members of their chance, and therefore, though I have tabled two amendments, I shall not expatiate on them.

Mr. Deputy-Speaker: The amendments have been received today at 12 O'clock.

Pandit Thakur Das Bhargava: They are amendments to amendments, and are of such a nature that they go to the root of the matter.

Mr. Deputy-Speaker: But unless the Government are prepared to accept them, I cannot waive notice.

Pandit Thakur Das Bhargava: I am therefore giving a solution to the Government. The Speaker also pointed out that the powers of Parliament have not been exhausted by this or that Act. Even now Parliament is capable of specifying that only such members in the Antarim Zilla Parishad will be entitled to vote as are not in the service of the Government, as do not come within the mischief of section 123(7).

Mr. Deputy-Speaker: Would it be *intra vires* then?

Pandit Thakur Das Bhargava: It will be *intra vires* in the sense that this Parliament has got the right to specify the other local committees also.

Mr. Deputy-Speaker: We can only specify the local authorities, but cannot go further and say that such and such members of the local authority only shall have the right of vote, and the others shall not have.

Pandit Thakur Das Bhargava: When we enacted section 171(3) we only mentioned district boards and municipal boards, but their members were then all elected.

Mr. Deputy-Speaker: Unless we amend the Constitution, it would not be possible by an Act of Parliament to say that only the elected members of the local authority shall be competent to vote.

Shri Tyagi: I differ from my hon. friend in this matter. May I point out that article 171(2) of the Constitution states that until Parliament by law otherwise provides, the composition of the Legislative Council of a State shall be as provided in clause

(3) of that article? That means we can by law provide otherwise than what is provided in article 171(3).

Mr. Deputy-Speaker: This is not a Bill for composition of the Legislative Council. It is a different Bill.

Pandit Thakur Das Bhargava: If you go through the Act, you will see that the Zilla Parishad has not yet come into existence, and they are providing for a body which is yet to come into existence. The Antarim Zilla Parishads are going to be dissolved very soon because the permanent bodies will come into existence soon. Therefore, they are making provision for a thing which is temporary in nature.

Pandit K. C. Sharma (Hapur): Because elections are taking place, that is the only question. It is to regularise that.

Dr. M. S. Aney (Nagpur): I would like to ask one question of the hon. Member. There is reference to "such other local bodies". Did such bodies have any nominated members or not? That is what I want to know.

Shri Tyagi: They are non-voting members.

Shri Hajarnavis: Dr. Aney has raised a question of fundamental importance, and I am going to refer to it in detail. I do not want to intervene at this stage.

Pandit Thakur Das Bhargava: Parliament should not be deprived of its powers. It is the sole and ultimate authority to decide what other local bodies etc., are to be specified. I will not say that there is no force in the argument that we may have to amend the Constitution, but I am absolutely clear that the High Court will say that the Antarim Zilla Parishads are existing bodies, though my hon. friend says they are new bodies. The point is they are not identical with district boards, and simply because the State Government says so, they cannot become identical with district boards,

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because in their constitution, ideology, voting and everything else they are different. Therefore, so far as this Bill is concerned, giving the right of election under section 27 was a wrong thing. After giving this right, now they want us to regularise it. This is like calling a woman your *begum* and then installing her as your wife. This is entirely wrong in principle. Why did you give the right? You have made the mistake, and so you must suffer the consequences. Therefore, from the point of view of constitutionality, this Bill is misconceived, and they should have first got the permission of this House for these Zilla Parishads to be specified, and if we agreed, then the elections could have been held.

On merits also, I am not in favour of recognising or specifying these Antarim Zilla Parishads. If all the 30 members are allowed to vote, they will vote for none but those whom the Government want to see elected. This will be negation of democracy if we pass this. Therefore, we ought not to allow this also.

Mr. Deputy-Speaker: Shri Sinhasan Singh. He asked Pandit Thakur Das Bhargava to be brief. Now I will ask him to be very brief.

Shri Sinhasan Singh: I will be very brief, and not repeat a single word.

I am sorry the previous Members have wrongly understood the provisions of the U.P. Antarim Zilla Parishad Act and so a long time has been taken to say that something wrong has been done, and that officers should not be allowed to vote.

Article 171 of the Constitution only says that members of the District Board or such other local bodies have the right to vote. What has been done in U.P. is this. The U.P. Government suspended the District Boards and in their place constituted the Zilla Parishads and Antarim Zilla Parishads for the time being, and that by ordinance. They superseded the dis-

trict boards, and appointed the District Collector to take over all the powers of the district board. Thereafter they formed the Antarim Zilla Parishads under section 4 of the Act, which says the the Antarim Zilla Parishad of a district shall consist of all the members of the District Planning Committee of the district and five members of the existing district board to be elected by members of the district board. In that section they have only said:

"The official members of the Antarim Zilla Parishad shall have no right of vote at its meetings anything contained in the U.P. District Boards Act, 1922 or any other law . . ."

That means that at a meeting of the district board, the official members, who were members of the planning committee and thereby became members of the Antarim Zilla Parishad, would not have the right to vote. The consequences of the constitution of the Antarim Zilla Parishads are given in a section of that Act. They have said therein that all the powers that were till that time exercised by the district boards would be exercised by this Antarim Zilla Parishad. It reads:

"(1) all powers, functions and duties of the District Board, or any committee thereof in respect of all matters including funds and property, whether under the enactment of the aforesaid or any other law, shall be vested in the Antarim Zilla Parishad, and shall, for the purposes of the administration of the U.P. District Boards Act, 1922 and any other law, be exercised, performed and discharged by or under the authority of the Antarim Zilla Parishad, which shall be deemed in law to be the District Board or Committee, as the occasion may require;"

This means that as the occasion may require, when the election to the Council of States and the Legislative Council of the State comes, the members of the Antarim Zilla Parishad will be deemed to be district board members for that purpose. Article 171 provides that the members of the district board will have the right to vote. As such, it has been stated that the members of the Antarim Zilla Parishad will have the right to vote as members of the district board. That is quite clear. As and when occasion arises, they will have the same rights as members of the district board. It is said that the officer-members form a majority, and if they are also allowed to vote, it may change the very function of the elections. I am sorry to hear this kind of argument, because that does not mean that we should deprive the official members of their franchise. They have the right to vote even today. Only, they have no right, so long as they are in service, to stand as candidates, but they have a right to choose and cast their votes. So, when they are sitting as members of the district boards, why should they be deprived of their right to vote? Where they should not vote and where they are deprived of their right to vote is provided for in section 4 of the Uttar Pradesh Antarim Zilla Parishad Act, 1958. As for their right to vote, section 6 lays down that they shall have the same rights as members of the district board.

In this connection, I would like to draw your attention to section 27 of the Representation of the People Act, wherein it is provided that the electoral rolls are to be changed as and when there is any change in the local bodies. Section 27(2) (d) reads thus:

"In order to enable the electoral registration officer to maintain the electoral roll corrected up-to-date, the chief executive officer of every local authority (by whatever designation such officer may be known) shall immediately inform the electoral registration officer about every change in the

membership of that local authority; and the electoral registration officer shall, on receipt of the information, strike off from the electoral roll the names of persons who have ceased to be, and include therein the names of persons who have become, members of that local authority;"

So, when the U.P. Antarim Zilla Parishad was constituted, the members of the previously existing district board ceased to be members of the district board, and, thereafter, the members of the Zilla Parishads should have their names entered in the electoral rolls, and accordingly, the electoral rolls were corrected, and they all became members.

Ch. Ranbir Singh: Voters.

Shri Sinhasan Singh: And they all become voters. Anybody who had any right objection could have raised the objection at the time the electoral rolls were corrected. But after their names have once been entered in the electoral rolls, it is difficult to say that they have no right to vote.

What Government are doing now is that they are only observing the provision of law, because U.P. is going to replace the English words 'district board' by the Hindi word 'Zilla Parishad'. There is nothing much in that.

Pandit Thakur Das Bhargava: The words 'district board' are Hindi words.

Shri Sinhasan Singh: No, they are not Hindi words. They are English words. In fact, the U.P. Act itself has used the words 'district board'. If I had the time, I shall be able to convince the hon. Member. For the very purpose for which they words 'district board' have been used, they have used the words 'Zilla Parishad'. So, these Zilla Parishads have the same functions as the former district boards. And how have these parishads come about? They came about as a result of the Mehta Committee's report. The Mehta Committee suggested certain changes in the constitution

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of the local authorities. In accordance with this, in U.P., they have used the words 'Zilla Parishads' instead of the words 'district boards'. And the zilla parishads are functioning now in place of the former district boards.

Now, what they have done is that they have included some more members from other sides, in addition to the original members of the district board. All of them have now become the members of the *zilla parishad*. All that the U.P. Act contemplates is the words 'district board' should be replaced by the words '*zilla parishad*' including '*Antarim Zilla Parishad*'.

In this connection, I would like to say one other thing, namely that the Constitution also should be amended to that extent. Article 171 says 'district boards and such other local authorities'. So, the words '*zilla parishads*' also should find a place in the Constitution. The new provision must read 'district boards or *zilla parishads* or any other local bodies'.

Pandit Thakur Das Bhargava: Even non-existing local bodies should be included?

Shri Sinhasan Singh: That is quite different. I agree with him. Local committees are only for notified areas or some towns. But so far as *zilla parishad* is concerned, it is equivalent to the district boards in other States. So, the words 'district board' should be amended to include '*zilla parishads*' also. In my opinion, there is nothing wrong which is going to be done. Whatever is being done is rightly going to be done.

Shri Hajarnavis: Mr. Deputy-Speaker, Sir. Listening to the debate, I have been impressed by the honour and privilege which I enjoy in being a Member of a House which sets such a high store by the principles of democracy. So long as we are subjected to the criticism and scrutiny as was done in this particular case, I am quite sure the Ministers will not be allowed to err.

I would again express my gratitude to those Members who have found that the Government's action was in accordance with the provisions of the Constitution. I shall not repeat what they have said, and they have said it so ably and so convincingly.

But there are a few matters which I must place before the House; several Members have raised doubts, out of whom Shri Tyagi was one. My hon. friend Shri Tyagi is an elder of the House, and personally I hold him in very high esteem, and it is my duty, if I can allay the doubts which have assailed him, to do so.

Firstly, he is concerned with the fact that we have created an electorate or that we have allowed an electorate to be created in which the officials form such a large component. I have myself said that and the Government and personally I myself were equally concerned with this aspect. Unless Government felt themselves compelled to include these names, I can assure the House and also my hon. friend Shri Tyagi that we would have certainly eliminated them. But if anyone in this House were to claim that Parliament has accepted either expressly or implicitly the principle that an official, even if he is otherwise qualified, must be excluded from an electorate, then I submit that that is a proposition which will not bear examination at all.

Coming to article 171, again, you will find Sir, that there are three or four categories of constituencies. The first is the one which we are dealing with, namely municipalities and district boards. The second is the graduates' constituency, and the third is the teachers' constituency. Now, it is not suggested that the officers who have got to be graduates—and all of them, I think, in all the States, are graduates—are excluded from the graduates' constituency, solely on the ground that they are employees of the State.

Shri Raghbir Sahai (Budaun): They are not excluded.

Shri Hajarnavis: The teachers also are very often employees of the State. They are also not excluded. Therefore, there is no warrant for any suggestion that when the question of formation of electorate is being considered, we have got to exclude a person from the role solely on the ground that he happens to be an official; if in our interpretation we come to the conclusion that the person is otherwise included, but must be barred from vote because he is an official then that kind of interpretation that they should be excluded is inadvisable.

Apart from this, I shall come to another provision which has been made by this Parliament, and which is being acted upon. I would refer to the Fourth Schedule to the Act.

My hon. friend Shri Khushwaqt Rai is a Member for whom I have very great regard.

Shri Khushwaqt Rai: Thank you.

Shri Hajarnavis: I know how sincere he is, and how serious he is in making his submissions in the House. He went through section 27(2) of the Act, and pointed out, and I think rightly, that we have included municipalities in the Fourth Schedule, and district boards also in the Fourth Schedule. That was his first point. In his second point, he adverted to my contention that the Antarim Zilla Parishads are District Boards and said that so far as the members of Municipalities and District Boards were concerned, if their right of vote depended upon the provision of the Constitution and did not depend upon the law made, namely, such local authorities as were specified by law made in Parliament, there was no point in introducing the Bill. He asked why we introduced the Bill.

That is a very important question and I must answer him.

Coming to section 27(2), you will find that it has been drafted with a view to create a constituency. Section 27(1) says:

“In this section, ‘local authorities’ constituency’ ‘graduates’ constituency’ and ‘teachers’ constituency’ mean a constituency for the purpose of elections to a Legislative Council under... article 171”.

Then 27(2) says:

“For the purpose of elections to the Legislative Council of a State in any local authorities’ constituency—the electorate shall consist of members of such local authorities exercising jurisdiction in any place or area within the limits of that constituency as are specified in relation to that State in the Fourth Schedule”.

Therefore, what section 27(2) creates is set out in the Fourth Schedule, those bodies the members of which will qualify for being electors in the local bodies’ constituencies. We are not specifying, saying that in addition to the institutions which are mentioned in article 171 we are putting additional local authorities. That is not the expression that we have adopted in drafting it. What we say is that these institutions shall form a local bodies’ constituency. We could not exclude either Municipalities, by whatever name they are called or, as I was at pains to point out yesterday, District Boards.

There are mentioned some other local bodies also. Coming back to the point which I had in mind when I started—the bodies mentioned are Municipalities, District Boards and Cantonment Boards—I am quite sure my hon. friend, Shri Tyagi, is familiar with the constitution of the Cantonment Boards and is also familiar with the fact that the members of the Cantonment Boards are voters in the constituencies of the Legislative Council.

An Hon. Member: There are Town Area Committees also.

Shri Hajarnavis: First I will deal with the Cantonment Boards. He read out an impressive list of officials and I almost squirmed because it is contrary to the general notion that we have, that officials as a class ought to be kept away from the electoral constituencies. But have we always accepted and acted upon that principle? Is it something which is always accepted by us? Yesterday, my hon. friend Shri Tyagi, referred to the District Magistrate. He was at pains to point out that even the Superintendent of Police was there. Now, I will read out the names of the members of the Cantonment Boards. One is the Officer Commanding or if the Central Government so directs in respect of any Cantonment, such other military officer as may be nominated in the place of the Officer Commanding. Then we have a Magistrate of the First Class nominated by the District Magistrate. Then there is a Health Officer, then an Executive Officer. Again there are four military officers nominated by the Officer Commanding the Station by order in writing. Then seven members are elected.

Dr. M. S. Aney rose—

Shri Hajarnavis: I intended to express my gratitude to the hon. Member after I finished for pointing this out earlier in the Debate.

Pandit Thakur Das Bhargava: Three or four persons are a drop in the ocean.

Shri Hajarnavis: Therefore, if anybody were to contend that officers ought not to form a component of the electorate, it is a proposition which Parliament by law has expressed opposition to. I might mention at this stage that there are 22 cantonments in U.P., not one.

Coming back again to the point, it is not something, as in the case of the Antaram Zilla Parishads, which occurs

only in U.P. In Andhra Pradesh, Cantonment Boards are mentioned. In Bihar, Bombay and Madhya Pradesh they are mentioned. In Madras, they are mentioned. So that in every State where there are Cantonment Boards, there are nominated members who are officers of the Army and who, I submit, are liable, if at all, to such criticism than with greater qualifications the district officers. They are allowed by law to be there. So I think we were justified in saying that the proposition that an officer if he was otherwise qualified, should be excluded from membership being an officer, would not hold water at all.

Then there are several other institutions also—I will not dilate upon them—like the Town Committees. There are municipal bodies in which there is an official element; there are other bodies in which there are officials. As long as the Constitution stand, if it is a local body of that description and if a person happens to be a member we have got to give him the right of vote. It cannot be denied to him.

At this stage, I might mention that long before these elections were held—17th March 1960 was the date which was mentioned—long before the nominations were filed, the electoral rolls were prepared and published. Under rule 29(2), once the electoral roll has been prepared by the electoral registration officer, it shall be the electoral roll for the constituency. Was a single objection raised at that time? Was this controversy taken to the proper authorities? Why is it that it is only when the election is being held—say, a day or two later—that an approach is made to the High Court. If we had committed an error, it was not something like a sinister conspiracy between the Government of Uttar Pradesh and ourselves and we were going to condone at the last moment whatever they have done clandestinely. It is something which we are doing openly. If it was an error, that error was being proclaimed

from the office of every electoral officer, from the office of every district officer. Therefore, the intention was quite clear—that these persons are voters. Why was no objection raised at that time? All these questions of principle could have been taken up at that time.

So I submit that it is too late in the day to say that it is something which is being done because the U.P. Government had committed a mistake or someone else had committed a mistake and in order to regularise that, this Bill has been brought forward. I stated once, and I say it once again explicitly, that whatever is being done is being done in the light of the law as we understand and for which we take the responsibility. It is not being done to accommodate any other authority or any other Government. The Government of Uttar Pradesh are in no way concerned in this matter at all. We take up the responsibility for something which we have done. We are here in this House to canvass the support of the House for doing what we regard as our duty under the Constitution.

I might assure the House that in giving an opinion on matters of law I conceive it my duty to give my opinion and we have not given any opinion in order to.....

Pandit Thakur Das Bhargava: Who is doubting your *bona fides*?

Shri Hajarnavis: I am responsible as a Minister....

Pandit Thakur Das Bhargava: It is quite true; nobody is doubting your *bona fides*.

Shri Hajarnavis: I am responsible for whatever happens in the Ministry of Law.

330 (A1) L.S.D.—6.

Then, my hon. friend Shri Tyagi referred to a judgment of the High Court. As I indicated yesterday, if that judgment was binding on us nothing would give us greater pleasure than to give effect to it. Under the Constitution we are bound to give effect to the law as has been declared by our courts. They are our courts. It is quite possible that our interpretation may not be approved by the courts. We do not take upon ourselves the duty of interpreting the Constitution finally. Under the Constitution, every authority, whether it is Parliament, whether it is the Executive or whether it be the Judges, all are bound to conform to law. If anyone transgresses the limits, if there is any complaint that there is any breach of the provisions of law, then the controversy shifts to the courts and the courts will determine whether what is being done is in accordance with the law or not.

So far as this particular judgment is concerned, we are quite clear in our minds that where the Judge dismisses a case on the ground of lack of jurisdiction, whatever he has said in passing about the merits of the case—though it is entitled to high respect—is not a judgment which is binding. If the report read by my hon. friend yesterday is correct, then the petition was dismissed on the ground that the High Court said that it had no jurisdiction, at that stage, to intervene. Under those circumstances, though what fell from His Lordship is entitled to respect it is not binding.

If the matter was decided by the hon. Judge after listening to both sides, then, of course, the judgment has much greater strength and much greater authority than an opinion which the Court has expressed after hearing only one party and that too in dismissing the prayer.

About retrospective action I will only speak after my hon. friend has

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made his motion. I will keep my mind open till the last and then I will make my submission to the House.

I must also advert to the observations of Pandit Thakur Das Bhargava, who is an erudite lawyer and who is fierce in upholding the democratic rights of the citizens. He observed that when the Constitution came into force in 1950 we used the words 'district board' and so the words 'district board' will have the significance or signification which they had in 1950. If that is his proposition I find myself completely unable to agree. As I submitted yesterday, jurisdiction in respect of local self-government is given to the State Legislature, it is in the State List. What exactly is the form the district boards or the municipalities will take or the local authorities will take is for the State Legislature to determine. And, if they have erected a district board, it is not for us to say that it is not a district board or a district board to our liking....

Dr. M. S. Aney: If they abolish the district boards altogether, what is the position?

Shri Hajarnavis: The position is that they will not be entitled to vote at all.

I am thankful to my hon. friend Dr. Aney. If what my hon. friend, Pandit Thakur Das Bhargava says is correct not only are we bidden by the Constitution—enjoined by the Constitution—to keep a district board in the same form in which it was in 1950, but, if what he says is correct, then, we cannot without interfering with the Constitution or without interfering with the electoral right of the people abolish the district boards at all, as Dr. Aney points out. They

must be preserved as if in a vacuum in order that this particular constituency may be created.

Supposing, additional rights are given, additional electorates are created and additional constituencies are created, surely, there is a change in the composition of the district board. Would it be suggested that what is incorporated in Article 171 of the Constitution would prevent the State Legislature from exercising its undoubted functions under the Constitution? (*Interruptions*).

Shri Tyagi: If the functions are changed?

Shri Braj Raj Singh: The only solution is that the Constitution might be changed first—article 171—and then...

Shri Hajarnavis: I entirely agree with that. But we have got to see if whether the functions are the same or not. And, I have not yet heard here any argument which would show that the functions of the Antarim Zilla Parishad are different. The Act which created the Antarim Zilla Parishads clearly says that the powers, functions and duties of the district boards are vested in the Zilla Parishads.

Shri Khushwaqt Rai: But it is something more than a district board.

Pandit Thakur Das Bhargava: In the Act itself it is given.

Shri Hajarnavis: It was suggested by my hon. friend, Pandit Thakur Das Bhargava that the electorate was formed by the Election Commission

or by the Law Ministry. I submit, 'No'. As I read the Constitution, the electorate is formed by the Constitution itself.

Shri Tyagi: By the State Government.

Shri Hajarnavis: It is done by the Constitution itself. The moment the district board is created, it does not lie within the power of any other authority to deprive the member of any such right at all.

Lastly, I will mention about Andhra Pradesh. In the Andhra Pradesh the whole function of the district board is changed. So far as the Zilla Parishads in Andhra Pradesh are concerned they do not conform to the concept of district boards as we have understood them in 1950. Therefore, we are legislating for....

Shri Braj Raj Singh: Is that not true also in U.P. that they are totally different from district boards?

Mr. Deputy-Speaker: Should the hon. Member give his own concept of the thing?

Shri Tyagi: In what way does it differ?

Shri Hajarnavis: Therefore, I submit this motion for consideration to the acceptance of the House.

Mr. Deputy-Speaker: The question is:

"That the Bill further to amend the Representation of the People Act, 1950, be taken into consideration."

Those in favour, will please say 'Aye'.

Some Hon. Members: 'Aye'.

Mr. Deputy-Speaker: Those against will please say 'No'.

Some Hon. Members: 'No'.

Mr. Deputy-Speaker: I think the 'Ayes' have it.

Shri Khushwaqt Rai: The 'Noes' have it, Sir.

Mr. Deputy-Speaker: Then, let the lobbies be cleared.

Mr. Deputy-Speaker: Every hon. Member should be in his own seat. I would also request every hon. Member to refresh his memory as to the working of the apparatus. I will not take notice of any mistakes committed. The question is:

"That the Bill further to amend the Representation of the People Act, 1950, be taken into consideration."

The Lok Sabha divided: Ayes 112; Noes 29.

AYES

Division No. 8]

Ancy, Dr. M. S.
Barupal, Shri P. L.
Basappa, Shri
Basumatari, Shri
Bhattacharya, Shri C. K.
Bidari, Shri
Chandra Shankar, Shri
Chettiar, Shri Ramanathan
Dasappa, Shri
Desai, Shri Morarji
Dubey, Shri Mulchand
Gautam, Shri C. D.
Ghosh, Shri M. K.

Hem Raj, Shri
Laskar, Shri N. C.
Malliah, Shri U. S.
Manjula Devi, Shrimati
Mishra, Shri L. N.
Morarka, Shri
Nanjappa, Shri
Narasimhan, Shri
Padalu, Shri K. V.
Raghubir Sahai, Shri
Rajiah, Shri
Shri Ramasamy K. S.
Rane, Shri

[14.43 hrs.]
Rao, Shri Jaganatna
Rao, Shri Thirumala
Sahu, Shri Rameshwar
Sanganna, Shri
Sharma, Shri R.C.
Singh, Shri Daljit
Sinha, Shrimati Tarkeshwari
Tantia, Shri Rameshwar
Tariq, Shri A.M.
Upadhyay, Pandit Munishwar
Datt
Wasnik, Shri Balkrishna

Noes

Assar, Shri
Chandramani Kalo, Shri
Choudhry, Shri C. L.
Das Gupta, Shri B.
Dharmalingam, Shri
Dige, Shri
Gaikwad, Shri B. K.
Godsora, Shri S. C.
Iyer, Shri Easwara
Jadhav, Shri

Kamble, Shri B. C.
Kar, Shri Prabhat
Kunhan, Shri
Majhi, Shri R. C.
Misra, Shri B. D.
Mohammed Imam, Shri
Padam Dev, Shri
Parvathi Krishnan, Shrimati
Patil, Shri Balasaheb
Punnoose, Shri

Rai, Shri Khushwaqt
Ram Garib, Shri
Ramam, Shri
Shree Narayan Das, Shri
Singh, Shri Braj Raj
Sugandhi, Shri
Tangamani, Shri
Tyagi, Shri
Valvi, Shri
Warior, Shri

The motion was adopted.

Mr. Deputy-Speaker: We shall now take up clause-by-clause consideration. The question is:

“That clause 2 stand part or the Bill.”

The motion was adopted.

Clause 2 was added to the Bill.

Shri Braj Raj Singh: Sir, I beg to move:

Page 1,—

after line 14, insert—

“2A. Amendment of section 27.— In section 27 of the principal Act, to clause (a) of sub-section (2), the following proviso shall be added, namely:—

“Provided that official members of the Antarim Zilla Parishads as defined in the Uttar Pradesh Antarim Zilla Parishad Act, 1958, shall have no right of vote for the elections of the State Council.” (4)

Shri Khushwaqt Rai: I beg to move:

Page 1,—

after line 14, insert—

“2A. Amendment of section 27.— In section 27 of the principal Act, to clause (a) of sub-section

(2) the following proviso shall be added, namely:—

“Provided that the official members of the Zilla or Antarim Zilla Parishads of Uttar Pradesh shall have no right of vote.” (3)

श्री ब्रज राज सिंह : उपाध्यक्ष महोदय, मैं इस के बारे में ज्यादा कुछ नहीं कहना चाहता हूँ। मेरी एमेंडमेंट का तात्पर्य यह है कि जिला परिषदों के उत्तर प्रदेश में जो सरकारी मेम्बर हैं, उनको वोट करने का अधिकार नहीं होना चाहिए और न ही पहले उनको होना चाहिए था जैसा कि वहाँ कर दिया गया है। मेरा कहने का तात्पर्य केवल इतना है कि यदि हम जनतंत्र को सफल बनाना चाहते हैं अपने देश में तो सरकारी लोगों को, उनके सरकारी कर्मचारी होने के नाते, वोट का अधिकार नहीं मिलना चाहिए और अगर उनको ऐसा कोई अधिकार दिया जाता है तो उनके राजनीति में आने का खतरा है यह एक ऐसा सिद्धान्त है जिसको कि कोई भी पसन्द नहीं कर सकता। लेकिन जो कुछ भी अभी उत्तर प्रदेश में किया गया है, उससे इस सिद्धान्त की हत्या होती है। इसलिए मैं चाहता हूँ कि क्लॉज २(ए) नई जोड़ दी जाये जिससे कि सरकारी अधिकारियों को वोट का अधिकार न रहे। ये लोग सरकारी कर्मचारी हैं, सरकारी मेम्बर जिला परिषदों के हैं और उनको कोई भी ऐसा अधिकार नहीं मिलना चाहिए।

श्री खुशबख्त राय : जो संशोधन मैंने उपस्थित किया है, उसके बारे में मैं केवल इतना ही कहना चाहता हूँ कि जिन साधियों ने इस सदन में अपने विचार प्रकट किये हैं, उनमें से अधिकतर ने इस बात को माना है कि जो सरकारी आदमी हैं उनको काउंसिल के लिए होने वाले चुनावों में वोट का अधिकार नहीं होना चाहिए। मैं समझता हूँ कि माननीय मंत्री जी भी इस बात से सहमत होंगे और समझते होंगे कि यह ठीक सी बात है। चूँकि यह जनतंत्र के हित की चीज़ है, इस वास्ते मैं समझता हूँ कि वह मेरे इस संशोधन को स्वीकार कर लेंगे।

Shri Tyagi: Sir, I beg to move:

Page 1,—

after line 14, insert—

'2A. Amendment of section 27.—

In section 27 of the principal Act, in clause (a) of sub-section (2), before the words "members of such local authorities", the words "Non-official" shall be inserted. (1)

Sir, I again appeal to the House to see that the hon. Members are not just led by party considerations in this matter. It is a measure which affects the very structure of the Constitution and therefore, I would like the House to consider it absolutely dispassionately. My friend has just now argued that the cantonment boards have also official members. No doubt, they have. But they are the officers of the Government, the Central Government. I make a distinction between the officers who act directly under the orders of the Central Government and the officers who are directly under the State Government of India. The legislative councils we are electing are legislative councils of the State. With this pocket borough of 40 or 45 per cent of official members in the electo-

rate of the district boards, this will be too bad and that is my fear Government may any day have them at their command. It will be a bad precedent in democracy to allow such a bulk of officers to vote, particularly when even under the Antarim Zilla Parishad Act, they are banned from voting in the day-to-day activities. They are not allowed to vote, even on smaller matters, by the U.P. legislature. In their wisdom they have decided to deprive the officials of their votes in respect of the day-to-day activities. When such is the case, how is it that we want to permit them to vote for a very responsible body like the legislative council? If, in the opinion of the Government, the antarim zilla parishad is a substitute to the district board and it is automatically entitled to vote, why bring this Bill at all? Why bring an amendment. Let the law courts decide whether they are district boards or not.

There is one more thing. In section 3 of the Antarim Zilla Parishad Act, it is said that until some other arrangement is made, the District Magistrates shall be the district Boards. For sometime, the charge of the district boards was vested in the District Magistrate himself for a number of months. From the logic of my hon. friend, it will follow that he alone will exercise the right of vote. Even if the U.P. Legislative Assembly had decided or if the U.P. Government decided to constitute the Antarim zilla parishads manned totally by officials and no non-officials were there, would our hands remain tied? I do not agree to it. My fear is that the Ministry has erred and erred seriously in interpreting the Constitution and my fears are that the Election Commission too had done so. It has to be seen. I want to cry an alarm here that it is a matter of the Constitution. Sir, if interpretations from the Election Commission become so cheap as to allow elections to go that way, important matters to be proceeded in that way where High

[Shri Tyagi]

Courts also differ, my fears are—we should think twice before we allow it—as to what is going to happen in the next elections. It is a very serious matter. I attach a great importance to this. I would pray to the Government not to be led by circumstances they should boldly confess that illegal elections have been held.

Who are the gentlemen responsible for these illegal elections? They are illegal no doubt, otherwise there was no necessity for them to bring a Bill to retrospectively recognise the Antarim Zilla Parishad. So they are doing it only because it is plain, every man in the street knows it, that retrospective effect is being given to the Antarim Zilla Parishad not from the date when the Antarim Zilla Parishads were formed, not from the date when the Antarim Zilla Parishads came into being, but from 1st February 1960 so that the elections held illegally may be covered.

That is what is going to happen. Is our Parliament now required to go so cheap as to accommodate these blunders committed on even the matter of Constitution? Those persons who have blundered must face the nation, and it is for the Parliament, if you want to raise the authority of law, if you want to raise the authority of democracy, to punish those persons if they are at fault. I am not quite sure of my opinion because I am not a student of law.

Mr. Deputy-Speaker: He is very sure, otherwise he would not have said it in such emphatic terms.

Shri Tyagi: Sir, the logic is there. It is being applied retrospectively. Why? It is because they know that the elections have been illegal and, therefore, they now want to legalise it. Illegal elections to be legalised is something which I cannot really tolerate as an individual. I feel it is my duty as a Member of Parliament to just raise my voice in this matter and protest.

Therefore, I appeal that the Parliament, only for the sake of upholding the dignity of Parliament, must stick to the law and not allow them to go astray in this matter. I have moved my amendment and I pray that the Parliament may just agree to this. It is not because the U.P. Government themselves have not given the power of vote to their officials. As I said the other day, these are the officers in whose contact the public comes practically every day. If these officers are to be pulled one way or the other, if all types of parties are to canvass them and they become the target of criticism by all the parties, my fears are that the law and order situation in the country will become worse. It has already gone worse. If you go and ask the people they will give you their reactions about the manner in which the law and order situation in the country exists today. The condition in which it is obtaining today will become worse if officers are brought into the controversy in elections, into political controversies. One officer will vote on one side and another will vote on another side. Even the U.P. Government would not allow that.

What will happen if tomorrow or after some time the U.P. Government in their wisdom choose to call these officials, this official block as associate members, as non-members?

Mr. Deputy-Speaker: The hon. Member may try to conclude now.

Shri Tyagi: I, therefore, plead, Sir, to the House—I have no time at my disposal—with all the emphasis at my command that all the Antarim Zilla Parishad people should not be given the right to vote. Only non-officials should be given the right to vote, because at the time of framing the Constitution we had that point in mind. We knew that the members of district boards were non-officials and therefore we included them.

Mr. Deputy-Speaker: Shri Kalika Singh may have two or three minutes.

Pandit Thakur Das Bhargava: Sir, may I move my amendment?

Mr. Deputy-Speaker: I have been enquiring from hon. Members the amendments that they wanted to move.

Pandit Thakur Das Bhargava: You asked about clause 2.

Mr. Deputy-Speaker: Clause 2 has already been passed. Afterwards I asked with regard to the insertion of this clause 2A the amendments that the hon. Members wanted to move.

Pandit Thakur Das Bhargava: Shri Tyagi has just finished his speech. After that I proposed to move my amendment.

Mr. Deputy-Speaker: In the beginning I enquired from hon. Members whether they wanted to move their amendments for the insertion of clause 2A. Certain hon. Members stood up and indicated their intention to do so, but Panditji did not rise at that time. Then again, there is another objection that he has not given notice in time, he has only sent it today.

Pandit Thakur Das Bhargava: I have given notice of it only today. On that point if you are pleased to disallow it I have no objection.

Mr. Deputy-Speaker: I cannot condone that delay. If he wants to say something on this I can allow him two or three minutes.

Shri Kalika Singh (Azamgarh): Sir, the impression that has gained ground here, that the Antarim Zilla Parishad in U.P. substitutes the district board is quite wrong. In all the districts of U.P. practically there were three bodies: the panchayats under local self-government, the district boards under local self-government and planning committees

under the planning administration controlled by the Chief Minister. There was, therefore, a proposal to integrate these three bodies into one and form one body, which is now called the Antarim Zilla Parishad. Later on, when the Act is passed there it will become Zilla Parishad. According to the Antarim Zilla Parishad Act only 5 members out of the 60 members of the present district boards were taken in the new body and the rest of the 55 members ceased to be members. Also, according to that Act, the officials who were members of the planning committees and the District Magistrate who was presiding over those planning committees became automatically members because the planning committees were integrated into that body. Then, lots of members were sent up from the villages elected by the *pradhans* from their panchayat samitis.

Mr. Deputy-Speaker: That we have already discussed. The only question now is whether the elected members alone should be given the right to vote or others also.

Shri Kalika Singh: As I said, this is an integrated body formed out of three bodies. If somebody is a member, then the membership carries with it the right to vote. Therefore, every member of this body has a right to vote. I know the situations that have arisen in U.P. The officials had referred this matter to the Government. The Government wrote down to them that voting is not compulsory, every officer has got discretion to vote or not. I know that during all this time although they had the right to vote they have not exercised their right to vote. Whenever there was any controversy they did not exercise their right to vote in their own discretion. Therefore, on that ground I oppose this.

Then there is another point. This measure is designed to de-officialise the officials. This is because we are now running a democracy. There is the question of bringing the officials

[Shri Kalika Singh]

also into the present democratic set-up, and to de-officialise the officials is, I think, a very good measure. When the officials are also there to represent the public opinion, they will try to incorporate what is there in the democratic set-up. On that score, Sir, I congratulate the Ministry for the Bill.

Shri Hajarnavis: Sir, I oppose the amendments. I have very little to add to what I have already said, except that I may point out that so far as other local authorities are concerned the State Governments in various States nominate large numbers and then they are also subject to the criticism to which my hon. friend, Shri Tyagi referred. Are they not people on whose loyalty the State Government may count? If that is the objection....

Shri Tyagi: What I say is that Government servants should not be drawn into this.

Shri Hajarnavis: There are 216 in municipalities in Bihar, 434 in notified area committees, 133 in district boards in Punjab nominated by State Governments.

Shri Tyagi: In the Parliament also there are nominated Members.

Mr. Deputy-Speaker: May I put all these amendments together?

Shri Braj Raj Singh: No. 4 is something different.

Mr. Deputy-Speaker: I shall put that separately. The question is:

Page 1,—

after line 14, insert—

'2A. Amendment of Section 27.—In section 27 of the principal Act, in sub-section (2), before the words "members of such local Authorities", the words "Non-official" shall be inserted.' (1).

The motion was negatived.

15 hrs.

Mr. Deputy-Speaker: The question is:

Page 1,—

after line 14, insert—

'2A. Amendment of section 27.—In section 27 of the principal Act, to clause (a) of sub-section (2), the following proviso shall be added, namely:

"Provided that the official members of the Zilla or Antarim Zilla Parishads of Uttar Pradesh shall have no right to vote." (3)

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Page 1,—

after line 14, insert—

'2A. Amendment of section 27.—In section 27 of the principal Act, to clause (a) of sub-section (2), the following proviso shall be added, namely:

"Provided that the official members of the Antarim Zilla Parishads as defined in the Uttar Pradesh Zilla Parishad Act, 1958, shall have no right of vote for the elections of the State Council." (4)

Those who are for the motion will please say 'Aye'.

Some hon. Members: Aye.

Mr. Deputy-Speaker: Those who are against the motion will please say 'No'.

Some hon. Members: No.

Mr. Deputy-Speaker: The Noes have it.

Shri Braj Raj Singh: The Ayes have it.

Mr. Deputy-Speaker: Is the hon. Member serious? Then I will allow him.

An hon. Member: He is not serious.

Shri Braj Raj Singh: Who is not serious? I was very serious about these amendments.

Pandit Thakur Das Bhargava: The ruling of the Chair cannot be revised. What is the use of having a division?

Mr. Deputy-Speaker: Then I might ask the hon. Members who are in favour of the amendment to rise in their seats. If I do that, even in that case, hon. Members may know what would be the fate of the amendment.

Shri Braj Raj Singh: I do not know the fate. But we were serious about the amendments. We wanted to press the amendments.

Mr. Deputy-Speaker: Then, I request hon. Members who are in favour of the amendment No. 4 to rise in their seats.—I find 17 hon. Members standing. Now, hon. Members who are against the amendment may rise in their seats.—I find a large majority standing. So, the amendment is lost.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

“That clauses 3 and 4 stand part of the Bill.”

The motion was adopted.

Clauses 3 and 4 were added to the Bill.

Mr. Deputy-Speaker: Now, we take up clause 5.

Clause 5—(Amendment of Fourth Schedule)

Shri Braj Raj Singh: I beg to move:

Page 2,—

for lines 11 to 15, substitute—

“(b) under the heading “Uttar Pradesh” for the entry “2. District Boards”, the following entry shall be substituted, namely:—

“2. Zilla Parishads including Antarim Zilla Parishads.” (5)

Shri Tyagi: I beg to move:

Page 2, lines 12 to 14, for

“the following entry shall be deemed to have been substituted with effect from the 1st day of February, 1960, namely:—”

substitute—

“the following entry shall be substituted, namely:—” (2)

Shri D. C. Sharma: Sir, I should like to know what business the House takes up after this Bill is over.

Mr. Deputy-Speaker: The Estate Duty Amendment Bill. Not the motion about the Hindustan Shipyard.

Pandit Thakur Das Bhargava: So far as this clause is concerned, sub-clause (a) says that under the heading “Andhra Pradesh,” for the entry, “District Boards,” the words, “Zilla Parishads” shall be substituted. Similarly, under sub-clause (b), under the heading “Uttar Pradesh,” for “District Boards”

“the following entry shall be deemed to have been substituted with effect from the 1st day of February, 1960, namely:—

“2. Zilla Parishads including Antarim Zilla Parishads.”

Apart from the objection of my hon. friend, Shri Tyagi, which he may or may not repeat now, namely, the retrospective effect,—it is a very serious matter. In a matter like this, we should not allow a law to be substituted in this manner, because we are doing things which are illegal. Apart from that point, my submission is, under article 171 of the Constitution, we have got the words “district boards”. My objection lies in this way, namely, in consequence of that article, under section 27(2) of the Representation of the People Act, they have included five bodies. The words “district board” have been

[Pāndit Thakur Das Bhargava]

taken from the Constitution. The real purport of the amending Bill is the substitution. If the words have not been substituted or if the Constitution has not authorised the use of such words, then, we cannot have in a circumlocutory manner amend the Constitution in this way. The real purpose or the purport of this law is that our Constitution should be amended. But under the Constitution, unless all the provisions of article 368 are fulfilled, the Constitution cannot be taken to have been amended. The district boards will remain there. In the schedule to the Representation of the People Act, this amendment is sought to be made. As a matter of fact, so far as the Representation of the People Act is concerned, it cannot also over-ride the Constitution. The words "district boards" are there in the Constitution itself. Therefore, this attempt to amend the Constitution in a roundabout manner is not right and not correct.

For the purpose of these elections, five bodies have been mentioned. Two of them were already there and the remaining three were added later on by Parliament. The words that are now sought to be included cannot be substituted in the manner desired. My submission, there is no case for a substitution. If the Government wanted to have an addition, I would not have objected to it, because then, they will be going only against the spirit of the Constitution and not against the Constitution itself. But now, they are going against the Constitution itself. Therefore, the whole question revolves round the one question as to whether a district board is the Zilla Parishad or not.

First of all, apart from the question whether it may or may not be the same body, this amendment should not be allowed, because, it is against the Constitution and is tantamount to an amendment of the Constitution.

Secondly, several opinions have been voiced by other hon. Members

also to the effect that Zilla Parishads and the district boards cannot be identical. They were never thought to be identical. You will see what the Act which constituted the Zilla Parishads says:

"The State Government shall, with a view to facilitate the establishment of the Zilla Parishads for the co-ordinated administration of the affairs concerning economic and social planning and local self-government in the district and to ensure the smooth transition..." etc.

"by notification published in the official Gazette..." etc.

"constitute the Zilla Parishads... which shall be called by the name of Antarim Zilla Parishads, a body corporate having a particular seat..." etc.

So, this Zilla Parishad is not, as a matter of fact, in its aim, and in its object, in its constitution and in its structure, the same thing as the district board. Therefore, if we want to substitute the words "Zilla Parishads" for "district boards", we are not only going against the accepted meaning of the words "Zilla Parishads" or the accepted notions behind them, but, at the same time, we are doing something which is violently against the Constitution. Zilla Parishad, by its very nature, is not the same as the district board. According to the Act passed by the U.P. Legislature, the Antarim Zilla Parishads shall consist of all members of the district planning committee. And there are five extra members also. If you see the constitution of the planning committee, you will realise that there a large number is indicated. Most of them are nominated officials. There are 30 of them. To say that the planning committee and the Zilla Parishad and the district boards are the same is to use a word which is absolutely unjustified.

Supposing there was a competition between the district planning com-

mittee and the old district board. What is the parent body of these two bodies? The powers of the planning committee are quite distinct from those given to the district boards. Formerly, the district boards were the only self-governing institutions. Now, the Zilla Parishads are sought to be made perennial institutions. They are to cater, according to their constitution, to the economic and social and planning aspects of the country. The district boards were in relation to the self-governing aspects only. The district planning committee can certainly say that the district board is my parent and I am the legitimate son! The Zilla Parishad is not. So, the Antarim Zilla Parishad in no sense be called a district board.

Therefore, my submission is that the argument of my hon. friends that the district boards should be replaced or displaced is absolutely wrong. Even if they are replaced, it is not right to say that the district boards and the Antarim Zilla Parishads are the same. So, we shall be going against the Constitution if we allow this change to be made. Therefore, I oppose this amendment very seriously and I submit that if the Government are in a fix and want to substitute the Antarim Zilla Parishad, they ought to accept the view that the words ought to be specified by the law. If they want the Zilla Parishads to be given the right, they should not simply say that the Constitution is a sacred thing and so on. If they even now like to see that the Zilla Parishads should be substituted, let them include the Antarim Zilla Parishad now by law. They should not say that the words should be substituted in the Representation Act. Who is going to substitute them? The words cannot be substituted. The Constitution cannot be changed in this way.

My hon. friend made an argument that according to me the district boards must be kept for all time. But he forgets that they cannot be kept for all time since they cease to

exist. When they cease to exist, there would be no members. The Constitution would be quite safe if there are no district boards and when there are no members, because, then, the district boards will go out of the picture, as soon as they are abolished!

Now, supposing, an ass is to be a member of the district board, will the ass represent the district board? Therefore, if you want the powers to be given to these bodies, there must be elected members. Nominating the officials, say, the collectors, as has been done in section 3 of the Act constituting the Zilla Parishads, is not proper. We gave elected members to the district boards because we recognised those powers and the boards which were in existence and whose constitution we knew and because we wanted to give the powers to the elected members of the district boards, when we constituted those boards. Now, we are going against the Constitution and substituting something else which is not correct. Further, this formation of the Zilla Parishad is also a temporary measure. We do not know what will be the real shape of the Zilla Parishads which are coming. Therefore, this is behaving violently towards the Constitution. It is an insult to the Constitution; it is a disgrace to the Constitution. Therefore, I submit very strongly that I am opposed to it, unless it is provided that Interim Zilla Parishads may also be specified under 171(3).

Shri Braj Raj Singh: My amendment is:

Page 2,—

for lines 11 to 15, substitute—

“(b) under the heading “Uttar Pradesh” for the entry “2. District Boards”, the following shall be substituted, namely:—

“2. Zilla Parishads including Antarim Zilla Parishads.”

[Shri Braj Raj Singh]

उपाध्यक्ष महोदय, इस संशोधन का तात्पर्य यह है कि कानून मंत्री महोदय जो पीछे से एक अरसर को लाना चाहते हैं, १ फरवरी से अन्तरिम ज़िला परिषदों को अस्तित्व में ला कर और उनके सदस्यों को वोट का अधिकार दे कर, यह बाकी सब बातों के रहते हुए भी ऐसी चीज़ है जो कि सारी जनतंत्र की भावना के खिलाफ है। कलाज़ ५ के संशोधन द्वारा आप जो वोट का अधिकार अन्तरिम ज़िला परिषदों के मेम्बरों को देना चाहते हैं, उस वोट के अधिकार का प्रयोग वे कर भी चुके हैं। उन्होंने वोट के अधिकार का इस्तेमाल करके २० से लेकर २४ तक उत्तर प्रदेश की काउंसिल के मेम्बरों का जो चुनाव होना था, वह चुनाव कर लिया है। अब प्रश्न यह है कि यदि सरकार को इस बारे में शंका थी तो जिन लोगों को आज पहली फरवरी से वोट का अधिकार देने की बात चल रही है, उनको जब से पार्लिमेंट बैठी है, तब से अधिकार देने की बात क्यों नहीं की गई। अगर सरकार को इसके बारे में कोई शंका नहीं है, तो मैं समझता हूँ कि भेरे संशोधन को मान लेने में सरकार को कोई एतराज़ नहीं होना चाहिए।

अभी अपने भाषण में विधि उपमंत्री महोदय ने कहा है और कल भी कहा था कि वह जो रिट्रास्पेक्टिव इफ़ेक्ट देने की बात है, इसके बारे में सम्भवतः वह पुनर्विचार करेंगे और उनका इसके बारे में दिमाग खुला हुआ है। मुझे खुशी है कि उन्होंने अपने इस विचार को प्रकट किया है और कहा है कि इसके बारे में उनका दिमाग खुला हुआ है। अगर उनका दिमाग खुला हुआ है तो मैं उनसे निवेदन करना चाहता हूँ कि अगर कोई गलती हो गई है तो उसकी व्याख्या अदालत को, हाई कोर्ट को या सुप्रीम कोर्ट को या दूसरी अदालतों को करने दीजिये और न आप खुद बीच में आयें और न ही पार्लिमेंट को लायें। जिस ताकत का इस्तेमाल किया जा चुका है अन्तरिम जिला

परिषदके सदस्यों द्वारा काउंसिल के चुनाव में, उस ताकत को हम इस बिल के द्वारा एक लीगल शेप देने जा रहे हैं। अगर आप समझते हैं कि वह लीगल चीज़ थी तो हमें कोई एतराज़ नहीं है और इसकी व्याख्या अदालतों को करने दीजिये। अगर वह लीगल चीज़ नहीं थी तो उसका जो भी अरसर हो, जो भी उसका नतीजा हो, उसको उनको जो इसके लिए जिम्मेदार हैं, भुगतने दीजिये, आप बीच में न आयें।

इसलिए मैं इतना ही निवेदन करना चाहता हूँ कि जैसा कि माननीय उपमंत्रीजी ने कहा है कि वह इस पर पुनर्विचार करने के लिए तैयार हैं वह इस पर पुनर्विचार करें। अगर उसके बाद भी आप उनको वोट का अधिकार देना चाहते हैं तो हालांकि वह कांस्टीट्यूशन की बात है, फिर भी मैं बड़े ही विनम्र शब्दों में कहना चाहता हूँ कि वह उसकी हत्या करना है, कांस्टीट्यूशन की भावना की हत्या करना है और उस सारी चीज़ को पलटना है जो कि हम ने पिछले दस बारह सालों में पैदा की है और उस इतिहास को भी पलटना है जो इतिहास कि हमारा आज़ादी का ७०-८० वर्षों का रहा है। अगर आप और कुछ नहीं कर सकते हैं तो इतना तो कीजिये कि पहली फरवरी से जो ताकत देते की बात है, उसको तब से न दे कर आज से दें। इसके नतीजे के तौर पर यह हो सकता है कि चुनाव वायड करार दिये जा सकते हैं तो चुनाव दुबारा हो सकते हैं। इसलिए मैं कहना चाहता हूँ कि आप संसद् को बीच में न लायें। यह संसद् एक जिम्मेदार संस्था है जिससे कि लोगों को बड़ी बड़ी आशाएँ हैं और इससे आशा की जाती है कि वह देश के लिए अच्छे ढंग के कानून बनायें। अगर कोई गैर-कानूनी बात हो गई है, उसको यदि आप कानूनी शकल देना चाहें तो यह उचित नहीं है। यह संसद् की प्रतिष्ठा के खिलाफ है, जनतंत्र की भावना के खिलाफ है और इस तरह की बात करके हम आगे के लिए कोई अच्छी परम्पराएँ

कायम नहीं करेंगे इतना ही मैं निवेदन करना चाहता हूँ ।

Shri Tyagi: I beg to move:

Page 2, lines 12 to 14, for

“the following entry shall, be deemed to have been substituted with effect from the 1st day of February, 1960, namely:—”

substitute—

“the following entry shall be substituted, namely:—” (2)

Sir, my amendment is practically the same as that of Shri Braj Raj Singh. I want one clarification from the Government. What is their definite view now? The Law Ministry is at their disposal and all the the learned people are available. What do they say? Do they think that this election was legal and that the Antarim Zilla Parishad was legally authorised to vote and that the electoral roll was legitimately made? If that is so, why are they bothering about retrospective effect? Otherwise, let them confess before Parliament that they are in doubt about it and they want to give legal shape to the elections which were illegally held. If they were honest in that matter, I would have some satisfaction. When they say that the Zilla Parishad had the right to vote and if that interpretation was rightly given, where is the need for retrospective effect? I cannot understand this.

I appeal to the Government not to treat this House with this type of contempt. I have never in this House seen such a lot of deterioration. The manner in which Government are really dealing with this Bill is extremely significant, I must say, of the deterioration.....

Mr. Deputy-Speaker: He might see any amount of deterioration in the Government, but not in the House.

Shri Tyagi:...that has set in the body politics of the Union.

Mr. Deputy-Speaker: He might say anything against Government, but not against the House.

Shri Tyagi: We are fast tending to lose the sharpness and the grip over events and have left it to the vagaries of nature. Whatever overtakes us, we are overtaken. That seems to be the policy today. Otherwise, to give retrospective effect to elections held is something I cannot understand.

Therefore, I submit, let us not go down to the level of giving legal shape to the illegal elections. Perhaps tomorrow other people might give another interpretation and we might all become a laughing stock of the world. I, therefore, appeal to the Minister. He might consult some other closer friends, if he chooses. But for God's sake, withdraw that retrospective effect from this Bill, so that it may be a frank and free thing. We are entitled by the Constitution to point out what are the authorities which are entitled to vote. We can squarely recognise the Antarim Zilla Parishad.

Pandit Thakur Das Bhargava: Recognise a thing which does not exist? Zilla Parishad does not exist now.

Shri Tyagi: At least Antarim Zilla Parishad can be recognised by us, because the House in its wisdom, has chosen to give them the right of vote. So, we can openly say that we recognise it. Let them be electorates, I do not mind. But do not give them retrospective effect.

चौ० रणवीर सिंह (रोहतक) : उपाध्यक्ष महोदय, मुझे इस में कोई ऐसी बात नहीं लगी जैसी कि त्यागी जी कहते हैं । जहां तक मतदाताओं की फेहरिस्त का वास्ता है वह पहले ही बन चुकी थी और हर एक को मौका दिया गया था एतराज करने का । श्री त्यागी को भी मौका था, उस वक्त वह चाहते तो एतराज कर सकते थे । श्री बृजराज सिंह जी

[श्री० रणवीर सिंह]

को श्रीर खुशवक्त राय जी को भी मौका था, अगर वह चाहते तो उस वक्त एतराज कर सकते थे। इसलिए इस में कोई ऐसी बात मुझे नहीं दिखाई देती कि किसी के कुसूर को छिपाने के लिए इस धारा को शामिल किया गया है। जहां तक मैं समझता हूं इस में कोई ऐसी बात नहीं है। यह जो धारा यहां रखी जा रही है, मैं समझता हूं कि आगे आने वाले खतरे को महसूस कर के किया जा रहा है। अगर इस दृष्टिकोण से देखा जाय तो मैं समझता हूं कि पंडित ठाकुर दास भागंव ने जो रास्ता दिखलाया था वह शायद ज्यादा अकलमन्दी का रास्ता है। पता नहीं है कि कोर्ट्स जो अन्तरिम जिला परिषदें हैं या जिला परिषदें हैं उन को डिस्ट्रिक्ट बोर्ड्स के बराबर माने या न माने।

पंडित ठाकुर दास भागंव : वह हैं नहीं।

Not in existence.

श्री० रणवीर सिंह : तो फिर इस को डिस्ट्रिक्ट बोर्ड्स को जगह लाना कोई अकलमन्दी नहीं है। अच्छा होता कि इन को "एनी अदर लोकल अथॉरिटीज" वाली फेहरिस्त में अन्तरिम जिला परिषद् को रखा जाता। तब कोई खतरा नहीं आ सकता था।

इस के अलावा मैं एक अर्ज और करना चाहता हूं। लोक-सभा ने जब यह कानून पास किया उस के अन्दर जो फेहरिस्त थी उस में हर एक स्टेट की एनी अदर लोकल अथॉरिटी की फेहरिस्त मुख्तलिफ रखी गई थी के खिलाफ भी। उस वक्त भी यह बात मेरी समझ में नहीं आई थी, और आज तो बिल्कुल नहीं आई। आज के हालात बिल्कुल बदल गये हैं और समग्र देश के अन्दर हम ब्लाक समितियां बनाना चाहते हैं या जिला परिषदों जैसी जमात बनाना चाहते हैं। तो प्रांश और मद्रास के अन्दर तो एक पंचायत के मेम्बर को अधिकार हो बोट देने का, अगर वह ५,००० की आबादी की पंचायत का सदस्य है, इसी तरह से

मैसूर में भी अख्तियार हो, लेकिन पंजाब में यह अधिकार न दिया जाय, यह बात मेरी समझ में नहीं आती। हां, पंजाब की असेम्बली कोई कानून पास कर दे तो हो सकता है। तो यह जो डिस्ट्रिक्मिनेशन है वह मुझे पसन्द नहीं आया। इसलिए मैं चाहता हूं कि बदलते हुए जमाने को देख कर इस के लिए ऐसा बिल लाया जाये जो सब जगह पर लागू हो सके। हम देखते हैं, श्रीर श्री त्यागी जी को इस बात पर गुस्सा और गिला भी है, कि हम ऐन वक्त पर जब मामला सिर पर आ जाता है तब कानूनों के अन्दर तब्दीली करना चाहते हैं। मैं समझता हूं कि अब वह वक्त है कि हम जल्दी इस किस्म का कानून लायें और उस के अन्दर सारे देश में जितनी ब्लाक समितियां हैं उन के सदस्यों को इस एलेक्टोरेट में शामिल करें।

Shri Hajarnavis: I regret that I cannot accept the amendment.

Shri Braj Raj Singh: What? You said you have an open mind? Is it closed now?

Mr. Deputy-Speaker: He has opened it already.

Shri Tyagi: He is going by what he feels, not by the dictates of others.

Shri Braj Raj Singh: Yesterday his mind was open but not today.

Shri Hajarnavis: While replying to the debate I may say that this amendment is not an amendment which, for the first time, tries to introduce district boards in the list of those institutions, the members of which are entitled to be included in the electorate. Going back to the structure of section 27(2), we will find it, and this is what I indicated earlier so that I might hear some argument to the contrary which will enable me to accept the amendment. I drew the attention of the House to this sub-section, which says:

"for the purpose of election to the Legislative Council of a State in any local authority constituency the electors shall consist of members of such local authorities exercising jurisdiction in any sphere or area within the limits of that constituency as are specified in relation to the State in the Fourth Schedule."

Therefore, we could proceed in two ways. Having said "municipalities and district boards", we could have said "add the following institutions" under law made under Article 171. Having done that, we could have added another section saying that municipalities, district boards plus these institutions will form the local authorities constituency. We adopted, for the sake of compactness, another method of drafting. The difference of opinion, if at all, can arise only on account of the method of drafting. This amendment in the Fourth Schedule does not for the first time try to introduce Antarim Zilla Parishad in the place of the district board. What it tries to do is to give the contours of the constituency which is known as the local authorities constituency. This constituency was, in fact, formed on the 1st February, 1960. As I said in my opening remarks, this clause is only a declaratory clause which says that this change came into effect on the 1st February, 1960. It has no larger potency than this.

Shri Tyagi: Why the 1st of February?

Shri Hajarnavis: If I had put the 1st March, then I would have been asked "Why the 1st of March?".

Shri Braj Raj Singh: Why not the 25th of February?

Shri Hajarnavis: There is no amendment to that effect.

Shri Braj Raj Singh: In that case, you have not read my amendment.

Shri Tyagi: I want to know the reason why retrospective effect is given.

Shri Hajarnavis: It is a fact on the basis of which we have done it.

Shri Tyagi: What is the fact?

Shri Hajarnavis: On the 1st February the constituency was like this.

Shri Tyagi: It is not a constituency.

Shri Hajarnavis: What else is section 27 for?

Shri Tyagi: We are not deciding about the constituency.

Shri Hajarnavis: The Fourth Schedule is referred to in section 27. I consider it as one of the essential duties of the draftsman to see that the law should be absolutely clear so that whoever reads the amendment knows as to the date on which the particular section or particular law came into effect. I am quite sure that by mentioning the date we gain in point of precision and in point of clarity. Therefore, I oppose this amendment.

Shri Tyagi: I want to ask only one question. I want to know why retrospective effect is given. Otherwise, will the making of the electoral roll and the election become illegal? Is that so?

Shri Hajarnavis: No.

Shri Tyagi: Then why give retrospective effect?

Mr. Deputy-Speaker: Will the removal of that doubt alone give satisfaction to the hon. Member? I will now put amendment No. 5 to the vote. The question is:

Page 2,—

for lines 11 to 15, substitute—

'(b) under the heading "Uttar Pradesh" for the entry "2. District

[Mr. Deputy-Speaker]

Boards", the following entry shall be substituted, namely:—

"2. Zilla Parishads including Antarim Zilla Parishads."'(5)

Those in favour may say 'Aye'.

Some Hon. Members: Aye.

Mr. Deputy-Speaker: Those against may say 'No'.

Some Hon. Members: No.

Shri Braj Raj Singh: The 'Ayes' have it.

Mr. Deputy-Speaker: He ought to have waited till I gave my decision. Perhaps, I might have stated 'Ayes' have it! Now, the 'Noes' have it.

Shri Braj Raj Singh: 'Ayes' have it.

Mr. Deputy-Speaker: Let the lobbies be cleared.

Division No. 9]

AYES

[15:29 hrs.

Aney, Dr. M. S.
Das Gupta, Shri B.
Dwivedy, Shri Surendranath
Gaikwad, Shri B. K.
Ghosal, Shri Aurebindo
Godsora, Shri S. C.
Iyer, Shri Easwara
Jadhav, Shri

Majhi, Shri R. C.
Nayar, Shri V. P.
Patil, Shri Balasaheb
Punnoose, Shri
Rai, Shri Khushwaqt
Ram Garib, Shri
Ramaul, Shri S. N.
Reddy, Shri T. N.

Singh, Shri Braj Raj
Singhji, Shri Karni
Soren, Shri
Sugandhi, Shri
Tangamani, Shri
Tyagi, Shri
Warior, Shri

NOES

Achar, Shri
Agadi, Shri
Ambalam, Shri Subbiah
Arumugham, Shri S. R.
Bajaj, Shri Kamalnayan
Bangshi Thakur, Shri
Barman, Shri
Barupal, Shri P. L.
Basappa, Shri
Basumatari, Shri
Bhargava, Pandit Thakur Das
Bhatkar, Shri
Bhogji Bhai, Shri
Bidari, Shri
Brajewar Prasad, Shri
Chettiar, Shri Ramanathan
Choudhry, Shri C. L.
Das, Shri S. N.
Dasappa, Shri
Desai, Shri Morarji
Dube, Shri Mulchand
Dwivedi, Shri M. L.
Ganapathy, Shri
Ghosh, Shri M. K.

Ghosh, Shri N. R.
Gounder, Shri Doraiswami
Hajarnavis, Shri
Harvani, Shri Ansar
Hansda, Shri Subodh
Jinachandran, Shri
Kamble, Dr.
Kasliwal, Shri
Keshava, Shri
Krishna, Shri M. R.
Kureel, Shri B. N.
Laskar, Shri N. C.
Laxmi Bai, Shrimati
Malhotra, Shri Inder J.
Malliah, Shri U. S.
Malviya, Shri Motilal
Mehta, Shrimati Krishna
Mishra, Shri B. D.
Morarka, Shri
Munisamy, Shri N. R.
Muthukrishnan, Shri
Nader, Shri Thanulingom
Nair, Shri Kuttikrishnan
Narasimhan, Shri

Nayar, Dr. Sushila
Nehru, Shri Jawaharlal
Neswi, Shri
Pande, Shri C. D.
Patel, Shri Rajeshwar
Pattabhi Raman, Shri C. R.
Pillai, Shri Thanu
Radha Raman, Shri
Raj Bahadur, Shri
Rajiah, Shri
Ram Saran, Shri
Ram Shankar Lal, Shri
Ramakrishnan, Shri P. R.
Rampure, Shri M.
Rangarao, Shri
Rao, Shri Jaganatha
Rao, Shri Thirumala
Rao, Shri Vinayak
Ray, Shrimati Renuka
Reddy, Shri Nagi
Reddy, Shri Narappa
Reddy, Shri Rami
Reddy, Shri Viswanatha
Sadhu Ram, Shri

The question is:

Page 2,—

for lines 11 to 15, substitute—

'(b) under the heading "Uttar Pradesh" for the entry "2. District Boards", the following entry shall be substituted, namely:—

"2. Zilla Parishads including Antarim Zilla Parishads."'(5)

The Lok Sabha divided:

Dr. M. S. Aney: I have wrongly voted.

Mr. Deputy-Speaker: Is it the mistake of the machine or wrong voting?

Dr. M. S. Aney: It is my mistake.

Mr. Deputy-Speaker: The result of the division is follows:

Ayes 23; Noes 110.

Samanta, Shri S. C.
Sanganna, Shri
Satyabhama Devi, Shrimati
Selku, Shri
Shah, Shrimati Jayaben
Sherma, Shri D. C.
Shastri, Swami Ramanand
Shobha Ram, Shri
Siddiah, Shri
Singh, Ch. Ranbir
Singh, Dr. Ram Subhag
Singh, Sardar Swaran
Singh, Shri Birbal

Singh, Shri D. N.
Singh, Shri Daljit
Singh, Shri Dinesh
Singh, Shri H. P.
Singh, Shri Kalika
Singh, Shri Raghunath
Sinha, Shri Anirudh
Sinha, Shri B. P.
Sinha, Shri Satya Narayan
Sinha, Shri Satyendra Narayan
Sinha, Shrimati Tarkeshwari
Sinhasan Singh, Shri
Siva, Dr. Gangadhara

Subbarayan, Dr. P.
Subramanyam, Shri T.
Subbiah, Shri J.P.V.
Tantia, Shri Rameshwar
Tewari, Shri Dwarikanath
Tiwari, Shri R. S.
Tiwary, Pandit, D. N.
Uike, Shri
Upadhyay, Pandit Munishwar
Datt
Upadhyaya, Shri Shiva Datt
Vyasa, Shri Radhelal
Wasnik, Shri Balkrishna

The motion was negatived.

Mr. Deputy-Speaker: The question is:

“That clause 5 stand part of the Bill.”

The motion was adopted.

Clause 5 was added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

Shri Hajarnavis: Sir, I move that the Bill be passed.

Mr. Deputy-Speaker: The question is:

“That the Bill be passed.”

The motion was adopted.

15. 31 hrs.

ESTATE DUTY (AMENDMENT) BILL

Mr. Deputy-Speaker: Now we take up the next item.

The Deputy Minister of Finance (Shrimati Tarkeshwari Sinha): Mr. Deputy-Speaker, Sir, I beg to move:

That the Bill further to amend the Estate Duty Act, 1953, be taken into consideration.

As the hon. Members are aware, the Estate Duty (Amendment) Bill, 1958, was passed by Parliament in September, 1958. . . . (*Interruption*).

Mr. Deputy-Speaker: Hon. Members should not be seen standing in
330(Ai)LSD—7.

the passages. They might move out quietly.

Shrimati Tarkeshwari Sinha: During the discussions on the Bill in Parliament in 1958 it was explained that after the Bill was passed steps would be taken to consult the State Governments with a view to get resolutions passed by the State legislatures under article 252(2) of the Constitution and that the Act should be brought into force in respect of agricultural lands as well as non-agricultural properties only after the receipt of the views of the legislatures concerned. Copies of the Amendment Act, a memorandum explaining the important changes made by that were sent to all the State Governments concerned with the levy of estate duty on agricultural lands and they were requested to get resolutions passed by the State legislatures in terms of article 252(2) of the Constitution. It was suggested to them that they could follow either of the following alternatives:—

- (i) Get a resolution passed by the State legislatures authorising Parliament to make the Amendment Act of 1958 applicable to the levy of estate duty on agricultural lands in the State; or
- (ii) Get a resolution passed by the State legislature authorising Parliament to exclude agricultural lands in the State from the purview of the parent Act itself.

The legislatures of all the States excepting West Bengal, Orissa and